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ABSTRACT

This report presents the proceedings of a conference held to examine the relationship between the police and minority groups with a focus on the problem of police use of excessive force. Successful community-police efforts to increase safety and reduce the use of force are described in case studies from four cities. Also presented are the texts of small group discussions held on (1) racial double standards in arrest rates; (2) police use of excessive force; (3) police training to lessen the use of excessive force; (4) State laws governing police use of firearms and the effects of firearm policy in police use of weapons; (5) ways that police chiefs' attitudes affect their forces' use of firearms; (6) ways that minority and majority groups differ in their response to the use of force by police. Options for both police and community groups to reduce tension and conflict are focused upon in talks presented on the second day of the conference. Also addressed are the issues of municipal liabilities in cases of police use of excessive force, the training of police officers to handle stressful situations, and special problems of non urban police departments. A list of conference participants (who included community relations workers, lawyers, law enforcement officers, and concerned citizens) is appended to the report. (Author/APM)

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Community Relations Service

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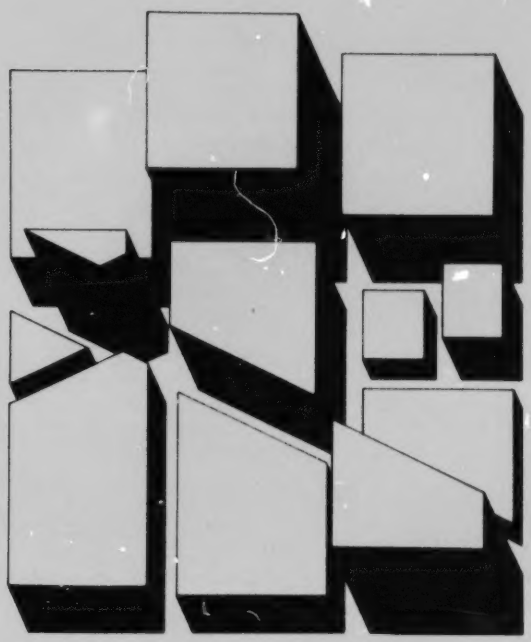
An Opportunity for Police - Minority Community Cooperation

Summary Report



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National Consultation on Safety and Force:

An Opportunity for Police - Minority Community Cooperation

Summary Report

December 11-13, 1979
Silver Spring, Maryland

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PREFACE

Alleged Police Use Of Excessive Force: A CRS Concern

The excessive use of force issue, as perceived by CRS, involves the complex question of when and under what circumstances police officers should shoot in performance of their duties.

An officer's decision to use a weapon is historically grounded in strict legal terms that are based on society's views of what is reasonable and just. But in stark reality, an incident in the streets demands a decision that is based on little more than what the officer, at the instant, preceives as reasonable and just.

Compounding the problem is the absence of performance standards, stemming from a lack of uniformity in State laws limiting the use of force to apprehend a felony suspect.

Basically, there are three categories under which the various State laws fit:

1) Common Law—which dates back to 15th-Century England and 18th-Century America, and makes all felonies punishable by death. This, the least restrictive policy, generally sanctions the use of deadly force to arrest a felony suspect. Twenty-four States adopt this approach, but 17 have placed such vague statements as "reasonable belief" or "sufficient cause to assume" into the books to further guide the officer's discretion;
2) Forcible Felony Rule—in which State laws specify the kinds of felonies for which deadly force may be employed; or they mandate that only "Forcible Felonies" justify force. Seven States adopt the Forcible Felony approach; and
3) Model Penal Code Approach—which sanctions firearms policies based on the danger to the suspect and the officer and to society as a whole. The technical classification of a crime such as a misdemeanor or felony is ignored: The need to apprehend suspects vs. the safety of the arresting officer vs. the value of human life. Seven States adopt this approach.

Twelve States have no justification statutes limiting an officer's use of deadly force.

Nonuniformity is evident. Some States follow the common law approach; others the forcible felony rule; others the model penal code approach; while others have no State justification statutes on deadly force.

Further compounding the problem in the lack of consistency in the classification of crimes by the various States. What is considered a felony in one State might be a misdemeanor in another, and in a third may not even be a crime.

CRS, historically, has worked with police departments and community groups on the excessive force issue since its early days. Initial efforts involved encouraging police departments to improve relationships with minority communities by establishing police-community relations units, by augmenting the staff of their units, or by giving more policy decision-making responsibilities to the heads of these units.

Another approach addresses underlying causes leading to police-minority clashes. This involves utilizing CRS' own police specialists and consultants to apprise community groups of the hazards of police work, critiquing police recruitment and affirmative action plans, encouraging and helping police to establish clearer guidelines on the use of firearms, identifying models for involving citizens in the administration of law enforcement, apprising police departments of problems resulting from the use of excessive force, and developing crisis contingency plans for handling protest in ways that don't add to the problem.

The consultation, cosponsored by the CRS, National Urban League, and League of United Latin American Citizens, supported by funds from the Law Enforcement Assistance Administration, had these objectives: (1) identification of key issues and problems related to police-minority community relations; (2) exploration of alternatives and solutions to the problem; and (3) development of a working "tri-lateral" (Black, Hispanic, police officials) relationship geared toward crisis response and problem-solving.

Participating were police and city officials and minority leaders from major U.S. urban areas, localities which lend themselves to tri-lateral problem-solving efforts; and localities where the problems were particularly acute. (See appendix for list of participants.)

CRS, as an arm of the U.S. Department of Justice, tries to help citizens to settle their race-related differences voluntarily rather than in the courts or the streets. Created by the Civil Rights Act of 1964, it is the only agency to which Congress has assigned the task of providing direct help to communities in the resolution of ". . .disputes, disagreements or difficulties relating to discriminatory practices based on race, color or national origin. . . ."

Cosponsorship of this consultation on safety and force is one approach CRS takes to bring citizens together to resolve their own community problems. The views and statements expressed herein are those of the participants, and do not necessarily represent the views of the CRS, U.S. Department of Justice, or the federal government.

TUESDAY, DECEMBER 11

OPENING SESSION

Presiding:

Roscoe R. Nix
Chief, Office of Technical Assistance and Support
Community Relations Service

GREETINGS AND INTRODUCTIONS

Gilbert G. Pompa
Director
Community Relations Service
U.S. Department of Justice

Homer Broome
Deputy Administrator
Law Enforcement Assistance Administration
U.S. Department of Justice

Drew S. Days III
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Gilbert G. Pompa–

We are observing today the culmination of an idea that began about five months ago. We are also observing a beginning, one which signifies a renewal as well as change in the approach to developing a better understanding between minorities and law enforcement agencies.

In July, we conceived and advanced the notion of bringing two national minority organizations, one black, one Hispanic, face to face in a national meeting with police officials from throughout the United States. Our decision was based on the increasing number of confrontations between black and Hispanic minorities and law enforcement agencies that were coming to our attention in the Community Relations Service.

The emotional intensity of the problem resulted virtually in an undeclared war between minorities and police in some areas of the country. It's an undeclared war that we in the Community Relations Service are determined to stop with your help.

From the beginning of America's history our basic progress has always stemmed in large measure from our willingness to reason together when differences or misunderstandings divide us. Our society rests and is dependent upon our willingness to bridge the gaps that divide us. It is precisely that foundation on which the Community Relations Service was built.

Our continued progress as a nation can be no better than the progress that we make in interrelating with each other. This audience is filled with law enforcement officials, Hispanic, and black leaders, with each needing the other for survival; you are natural allies who have, for lack of understanding of each other's problems, too often been cast in the role of antagonists.

Some of you have met before but under conditions that made it difficult to generate success and alleviate common problems. More often than not the dialogue was sought in the wake of tragedy when the passions of the moment triggered outrage and defensiveness of the part of both. Alliances can hardly be developed, much less survive, under that kind of atmosphere.

This consultation will not resolve all the problems that confront us in police/minority relations. We know that. But this much we do know: We must now seek new approaches based on clear recognition of mutual goals, more realistic appraisals of the problems, and a firm determination to solve these problems and attain these goals together. We believe that the setting we have provided will help you to chart a course to accomplish these joint goals. I believe that if we move forward together, the entire nation will benefit. Too much is at stake. We cannot afford to fail. We ask your cooperation.

Homer F. Broome–

As most of you are aware, safety and force–especially the specific issues of police abuse of deadly force–have received very little attention or exposure at the national level. Basically, it has been a local or regional issue. However, there have been rare exceptions. In 1978, Vernon Jordan, in a report distributed by a national news syndicate, focused on the issue in an article entitled "Curbing Cops' Use of Deadly Force."

In June 1979, in Louisville, Kentucky, the site of the NAACP convention, Dr. Clyde H. Hudson, a national executive board member of that organization, raised the issue of police brutality as being the 1979 method of lynching. Also in June 1979 at the National Urban League conference in Chicago, a panel discussion on police abuse of deadly force was presented, an event leading up to this national consultation.

The issue of the abuse of deadly force is critical because it has the potential for triggering a violent national explosion. It is, in all probability, the most serious act in which a law enforcement officer will engage, and has the most far-reaching consequences for all of the parties involved. It is therefore imperative not only that law enforcement officers act within the boundaries of legal guidelines, ethics, good judgment, and accepted practices, but also that they be prepared by training, leadership, and direction to act wisely whenever using deadly force in the course of their duties. It is in the public interest that law enforcement officers be guided by a policy which people believe to be fair and appropriate and which creates public confidence in law enforcement agencies and its individual officers.

It is the ultimate objective of the Law Enforcement Assistance Administration to aid and assist law enforcement agencies in the development of strategies and techniques for reducing the number of homicides by officers without the officers putting themselves in greater jeopardy.

At this time we have over $200,000 worth of funding in pending proposals dealing with his subject. Very shortly we will have committed a million and a half dollars in grants, focusing in this area.

One of the grants that we have awarded was in September 1979 to the Los Angeles County District Attorney's Office, a grant of approximately a quarter of a million dollars, to develop a district attorney investigation rollout response to investigate officer-involved shooting incidents at the scene.

Our largest grant in this area was one of $800,000 which involved four specific groups. One was the University of California at Irvine, which is to develop an academic perspective of the issue. The other was the International Association of Chiefs of Police to develop a law enforcement perspective. And the last group was composed of both the National Urban League and the National Council of La Raza to develop a minority perspective.

We awarded a grant to a black-owned small business firm, called September & Associates, for $150,000 to develop an electronic training system in the use of lethal force that would give police officers a realistic simulation of actual encounters. This organization is located in Seattle, and is working very closely with the Seattle Police Department.

We have had funding with the Public Interest Law Center of Philadelphia called PILCOP. It is involved in providing limited legal assistance, preparing studies, drafts, legislation, and in educating the public on various topics relating to police misconduct.

In addition, we have a proposal to compare deadly force utilized by police officers in large urban communities controlled by minorities and by non-minorities. This proposal by the Morgan Management System of Maryland, is in the process of being funded.

In addition, we are probably going to be funding the Philadelphia District Attorney's Office for the development of a program in this area.

And finally LEAA's most recent funding is this national conference. Our hope is that this is the thrust that spearheads a national strategy to deal effective with this highly sensitive and cruical issue.

Drew S. Days III–

The Attorney General would be somewhat surprised to hear me refer to him as a "law-and-order" Attorney General. That has all kinds of significance in America. It has been regarded as a code phrase for actions that are really not in the best interest of minority citizens, minority communities. But I believe he is a law-and-order Attorney General because he believes that order comes not through coercion, not through the iron fist, not through intimidation, but from the engendering of increased respect for the rule of law. He understands keenly, better than most, that respect for the rule of law grows out of citizen confidence and trust in those who enforce the law.

Unfortunately, for a variety of reasons there is and has been for a number of years a lack of confidence, particularly among ethnic minorities, in the most visible representative of our legal system, the officer on the beat. I feel confident, in speaking for the Attorney General, to say that he believes that this crisis of

confidence is a crisis of national proportions. It is a national problem which the federal government and he, as the Attorney General—the chief law enforcement officer of the nation—can no longer ignore. He believes, however, that the government and he, as Attorney General, must take a balanced approach to this problem.

On the one hand, there must be vigorous enforcement of laws against discrimination and official misconduct and brutality. But, on the other hand, the federal government has to recognize that it is a partner in efforts on the part of local and state law enforcement officials and minority community leaders to improve the quality and quantity of law enforcement and to increase the responsiveness of law enforcement agencies to the concerns of all citizens, particularly minority citizens of the United States.

This conference is the latest in a series of unprecedented gatherings of community leaders and law enforcement officials. It is fair to say that poor to non-existent communication between law enforcement officials and minority community leaders and people who reside in minority communities have been major contributing factors to local conflicts, many of which the Community Relations Service has been called upon to mediate.

What this conference must serve to do is come to an open and honest admission that we have a problem, that we have to confront it forthrightly and directly, and that we must leave conferences of this kind, as Homer Broome said, not feeling that we've solved all the problems overnight, but with a renewed dedication to continue this dialogue, to continue the work that started at this conference and other conferences, to go back as police officials and community leaders to re-earn, if you will, the titles that we carry as leaders of our community. We have to serve as leaders in this very important area. If we do not, the problems that have festered for so many years will continue to plague us.

In the area of enforcement, we have to start with the proposition that bad police officers are not good for law enforcement. Consequently, the federal government is dedicated to enforcing vigorously the authority that we have to deal with criminal violations of civil rights. The Attorney General has made this goal one of his priorities and has directed me and my staff to do everything we can to increase our effectiveness in this area. One example of that is his firm commitment to our conducting simultaneous investigations of complaints of civil rights violations while local and state officials may be conducting investigations as well. It is inappropriate, in our estimation, and in the Attorney General's view, for the federal government to sit back to see what happens, whether local and state law enforcement officials do their jobs correctly.

However, if those agencies do get to the point of taking demonstrative and firm action in this area—for example, convening grand juries or initiating prosecutions—then, of course, we will stay our hand to watch the outcome of those particular developments. That's good law enforcement, and we think it represents a healthy partnership between the federal government and local law enforcement.

He has also directed that the U.S. Attorneys' offices around the country make an analysis to identify which offices can accommodate the creation of special civil rights units, and we are in the process of doing that, following up on efforts that have already been made in many U.S. Attorneys' offices around the country—in Houston, Southern and Eastern Districts of New York, in California, and Chicago. We are seeing this renewed interest and renewed commitment on the part of U.S. Attorneys to the work of enforcing civil rights laws.

We are confident that without the active involvement of U.S. Attorneys we cannot effectively communicate to the citizens of the United States that we are serious about this endeavor. While the civil rights division is principally responsible for carrying out this charge, we have to have people on the local level who can communicate on a daily basis with law enforcement officials and with the community to demonstrate that there is an abiding and continuing concern on our part with these issues.

We are conducting training programs of U.S. Attorneys to increase their skills and abilities to deal with these problems; and, as a result of action taken by former Attorney General Bell, we are enforcing the dual prosecution policy which requires us to evaluate independently the extent to which state and local action in civil rights cases has served to protect rights that are protected under our federal laws.

We are also attempting to address some of the issues of police misconduct and abuse in civil litigation. I will only mention the name Philadelphia and say no more. But that case of course is in the courts and we will have an ultimate resolution with respect to the ability of the Attorney General of the United States to address issues raised in that litigation.

But there is another dimension to our law enforcement responsibilities, and that is with respect to employment discrimination. You will recall the Kerner Commission Report describing police departments in major urban centers as occupying armies of whites in minority communities. We have moved a significant distance away from that very stark and depressing characterization of law enforcement in America in 1968. But we have not come far enough, and it continues to be a priority of my administration in the Civil Rights Division and the Attorney General's administration to deal with the continuing exclusion of minorities and women from meaningful participation in law enforcement.

We cannot have effective law enforcement where agencies entrusted with carrying out the laws of states and localities are perceived as being "them," while we, remain the wards and charges of those agencies. Judge Bell talked about the need to share power in this country, that people cannot have a meaningful stake in what's going on unless they see that they are part of the decision-making process, part of the exercise of power. And of course that goes doubly for situations where law enforcement officials are making decisions that truly involve life and death on a daily basis.

We have been charged in our employment discrimination cases with watering down standards of excellence, of quality. I would rebut that by simply saying what we have found is that the standards really are, in so many instances, not directed toward what will identify good police officers, people who can

enforce the law effectively, but arbitrary and capricious standards that, if they do anything, serve to prevent qualified minorities and women from participating effectively in this process.

We are prepared of course to work with law enforcement agencies; but we will use all the means available to us to ensure that this pattern is altered significantly during the time that we have responsibility in this area.

The hypocrisy of the federal government in some respects has not been lost on this administration. We do not believe in the dual standard. We are keenly aware—and both Attorney General Griffin Bell and Ben Civiletti have spoken very openly about this problem. We cannot presume to dictate to you if we have not become serious about rectifying exclusionary practices in the federal government itself. And I'm pleased to say that the Attorney General has taken very significant strides since he came into office to increase the number of Hispanics in decision-making positions in the Department. Director Webster has made enormous strides in bringing minorities and women into the FBI. This is true in the Drug Enforcement Administration. You can expect to see more of this.

We are attempting to apply the same standards to ourselves that we apply to you. We don't sue ourselves, but of course you can sue us. Add to the extent that you have a case, we are going to respond affirmatively.

While I cannot speak authoritatively about the area of public corruption, that is also part of the Department's response to this crisis of confidence and law enforcement; a corrupt cop, a cop on the take is not good for law enforcement. He cannot engender the type of confidence that we need in this country to carry out the very important job of law enforcement.

Homer Broome has spoken to you about the work that LEAA is doing in funding studies of lethal-force problems, investigations of police shootings, and a number of other things. What this represents is a growing awareness on our part that we cannot always point the finger, that sometimes we have to stop suing you and sit down with you and try to sort out these problems and provide whatever expertise and guidance and financial assistance we can. These approaches have to work in tandem and will work in tandem in this administration.

Insofar as the civil rights division is concerned, I am presently working personally with the police commissioner of Memphis, Tennessee, on a variety of changes that are being made in complaint procedures and investigation of the use of lethal force and in other areas. And I am prepared to do this with respect to other police departments that indicate the same type of willingness. I lecture four times a year to a cumulative total of 1,000 police officials on the need for local officials to carry out their responsibilities in enforcing civil rights.

Now I am working with the National Association of State Attorneys General to assist them in helping states develop stronger civil rights legislation at the state and local level. What this all means is that we see our responsibilities very clearly to enforce the law. But we also see you as having major responsibilities for doing your homework in taking care of these problems at home. In most instances we come in to fill a vacuum that you have left in this area. We would prefer to see fewer and fewer vacuums in dealing with lawless, irresponsible, and discriminatory practices.

In summary, while we will be carrying out our enforcement duties vigorously and professionally, you should understand that we do see this session and future sessions—the technical assistance, the financial assistance—as an unavoidable and absolutely necessary federal response to this problem. We have to deal on both ends of this problem to make certain we are ultimately pointed in the right direction towards solving the problems.

There is no quick fix. What is necessary is steady work. And we commit ourselves to that steady work in this area. The solution will not come overnight. But the solutions that we find will lead to better law enforcement, better order, and a better America. On behalf of the Attorney General and the Justice Department, I wish you well in your work, and I hope that at this time next year we will have moved to a new plateau dealing with even more complicated problems that confront all of us in the area of law enforcement.

Vernon E. Jordan, Jr.—
President, National Urban League

This is an historic meeting. It is the first time all concerned parties have come together on a national basis to deal with the serious problem of excessive police use of force. The Community Relations Service, the League of United Latin American Citizens, the National Urban League could not have called this conference without the cooperation of police leadership and representatives of uniformed policemen. The fact that we are here today indicates the seriousness of this problem. It's a problem that concerns all of us. It's a problem that has great significance for our nation.

All of us want to reduce crime and to increase the effectiveness of police protection. And all of us want to reduce the use of deadly force as much as possible. Out of those shared concerns I hope there will emerge constructive solutions to the problem and a commitment to a continuing dialogue that serves our constituents and our communities.

I think we should begin by underlining the seriousness of the problem of deadly force. It can be portrayed, I believe, most graphically by this audience becoming aware of one very grim, sad fact. While we meet here, some police officer somewhere in America is shooting a civilian. And if today's case is typical, that civilian will be a black or a Hispanic person. If that incident follows the averages, it is likely the victim is a young person. It is likely that the incident involved a non-felony offense. It is possible the victim was unarmed. It is possible that the shooting could have been avoided. And it is certain that no punitive action will be taken against the policeman doing the shooting. If that incident, which may be occurring as we sit here, follows the statistical patterns, then it illustrates all too vividly the reason why we are gathered here.

Estimates vary, but most statistics place the number of victims of police use of deadly force in the vicinity of 600 each year, almost two each day. Clearly many of those incidents reflect justified use of force. But how many? Half? That still leaves perhaps 300 people dead who should be alive today. Two-thirds? Again 200 people are killed without just cause, not to mention due process. Even if nine-tenths of the incidents are justified, scores of innocent people die. Certainly no one would reasonably suppose all of the incidents are justified, that in none of them was there a clear alternative to deadly use of force.

No matter how generously we interpret the figures, it is clear that this remains a major problem demanding our immediate attention. And most estimates say that minority victims are at least half the total; even given the disparity in ethnic crime rates, a disparity many would dispute and most would recognize as caused by patterns of discrimination and poverty, differential crime rates alone cannot account for the excessive number of minority victims. That's why excessive use of force is a burning issue in minority communities.

When a black woman is shot to death in Los Angeles in a situation that is non-threatening to the officers involved, the repercussions sweep through all black communities. When a judge lets off cold-blooded police murders of a Chicano in Houston with a tap on the wrist, that sends a shock wave through all Hispanic communities.

So, the question has been asked, do the police have one trigger finger for whites and another for blacks and Hispanics? There may be some officers so consumed by racist attitudes that they constitute a clear and present danger to minority communities. There may be some who are so locked into aggressive behavior patterns, who see their badges as licenses to do a Wyatt Earp he-man number, that they may constitute a grave danger to everyone.

I think it is fair to say that most police departments make every effort to spring those types out. Times have changed. And the police have changed with them. Police chiefs don't want such people in their units, and police officers don't want to have to work alongside such people. The fact that people with such tendencies are less often found on police forces and the fact that at the same time police violence is relatively constant suggest that the problem cannot be pinned on the rotten apples or a handful of bad cops. Rather it suggests we ought to be looking at police practices in general, and we ought to examine the factors that lead a policeman to take action he later wishes he could reverse.

Every case of deadly force is different. Each has specific circumstances surrounding it. In almost all there will be defenses of the act, explanations for the act, rationale for the act. Sometimes a policeman may have no choice but to fire his gun to save his own life or the life of a bystander.

But the overwhelming number of such incidents and the grossly disproportionate use of force in so many of them suggests that most can be avoided. And when so many incidents have racial overtones, when the number of black and Hispanic victims is so disproportionate, we have a situation that strikes at the heart of our system of constitutional rights. For when a civilian is killed by a policeman, that officer has taken upon himself the roles of prosecutor, judge, jury, and executioner. That is not the pliceman's job. It is not what he has been trained for. It is not consistent with a democratic society. Beyond that, such incidents have drastic immediate repercussions. One is the increasing alienation of minorities not only from cooperating with law enforcement authorities but from the society at large. Every use of deadly force, whether justified or not, is seen and perceived as a racist-inspired act. It may not be. It may be the panic reaction of a good man who has a gun in his hand and is completely convinced that he is in mortal danger. But in a society that has so ruthlessly oppressed minorities, widespread conviction that incidents of deadly force are based on racism is understandable. And there may be truth in that belief, for it is difficult for anyone in a society marked by racist attitudes to escape the kind of negative stereotyping that sparks the fear and panic behind such incidents.

There are so many cultural differences among America's ethnic groups that behavior immediately understood by members of a group may be interpreted as threatening by outsiders. And in black and Hispanic communities, white policemen are largely outsiders. Without this kind of training and understanding of minority group culture and behavior patterns, policemen are deprived of an essential tool to their trade. It is significant that so many incidents involve white policemen and minority youth. Few involve black or Hispanic policemen. That suggests, I believe, a cultural dimension of the problem.

I do not claim that minority policemen are more humane or that minority policemen are more courageous or that minority policemen are less likely to panic. I am suggesting that their intimate understanding of the ghettos' values and behavior patterns and of the verbal and non-verbal signals minority people send makes them better equipped to deal with situations that might otherwise become explosive.

Training in understanding those patterns should be as important for police forces as training on the shooting range. Minorities have a stake in the resolution of this problem. We're the ones on the receiving end of the use of deadly force. But public safety officials and the policemen on the beat have a stake in this problem too. Now that deadly force has emerged as a national issue, there will be mounting pressure, public pressure, to deal with it. Certainly in the black and Hispanic communities of America this is not an issue that would be allowed to go away. Unless those incidents of abuse are drastically cut, we are sure

to find a different, more accountable method of administering and overseeing public safety forces.

A civilian review board is a red flag for policemen. But that is the definite result of continued high rates of excessive force. That is especially so when the public has so little confidence in internal departmental proceedings which are viewed as public-relations oriented.

The cop on the beat has a vested interest in reducing the use of deadly force as well. In many cities he is turned loose with few clear guidelines, little supervision, and inadequate training in dealing with threatening situations. So, he falls back on the gun, a solution that is totally inadequate. He is encouraged to see himself as the only one who can decide whether to pull the trigger or not in a given situation. That places an unfair burden on law officers.

People need rules, they need supervision. They need training to cover all of the difficult situations they will run into. Just shrugging our shoulders and saying that a cop has to make a judgment call is evading the issue. If that cop makes the wrong call, he has to live with the results of his decision for the rest of his life. And unless he is devoid of all moral sense, that's a terrible thing. Taking a human life, even when it can be rationalized, is something that can affect a person very deeply.

We need to keep in mind the need to spare individual policemen the lifelong agony of guilt and doubt, just as we seek also to save the lives of the hundreds of people each year who die through police use of force.

I want to say a brief word about the context in which deadly force occurs. Old fashioned theories about criminal personalities are no longer respectable. It is pretty well accepted these days that much criminal behavior is rooted in social injustice and economic deprivation. So long as any group finds itself relegated to the bottom of society's ladder and deprived of equal opportunity for both the rewards and the responsibilities of that society, it will contribute disproportionately to the numbers of those breaking laws. And the worst sufferers of that criminal behavior will be other members of the deprived group. The overwhelming bulk of crime takes place within the group. So, minorities have a stake in improved police protection.

Minorities now suffer over double the white rate of unemployment. They earn half of what white families earn. They have half the likelihood of whites to hold a decent job. Those and other statistics documenting minority disadvantage imply as well that minorities are more likely to come in contact with law enforcement officers. The country is entering a recession while minorities still are in an economic depression. Poor people have to choose between, this winter, heating and eating. That's an explosive situation. If 1980 is as bad a year for the economy as it appears, minority people will be in an even more tense and alienated mood. The white majority in America seems unable or unwilling to understand the situation. Movement to greater concern for the poor and minorities is frozen. There is greater resistance to minority claims for justice. Overt racism is becoming more common as many people no longer are ashamed of their attitudes.

What all this adds up to is an extremely dangerous atmosphere in which anything can happen. I know it is dangerous to discuss such things frankly. People immediately claim you are either predicting or fomenting riots. But it should be clear to anyone who knows the depths of suffering in minority communities that it would be irresponsible to pretend that the lid is on or will stay on no matter what fresh burdens are placed on the ghetto poor of our nation. What does this have to do with the issue of deadly force? It has everything to do with the issue, for we know from the experience of the 1960s most civil disturbances began with a confrontation between citizens and police officers. If—and I work and pray and hope to avoid it—but if the 1980s see a repetition of civil disorder, then it is as sure as the day is long that some sort of confrontation with the police will be the spark that sets it off. And the issue of deadly force is so deeply felt within minority communities that every such incident holds the possibility of wider, more serious repercussions.

I am not a policeman, nor have I ever had police training. So, I cannot spell out detailed police techniques to deal with the issue of deadly force. That's why this conference needs the participation of concerned citizens and police representatives capable of suggesting procedures that could improve the situation. But I am a manager and an administrator. So, I can suggest that the key to progress in this area does not lie with the cop on the beat who is subject to departmental control. It may not even lie with the chief, who may be either out of daily touch with officers or who may not have total control over all details of his force.

I have found in business and in government that the key control lies with middle managers—in this case, precinct commanders, who have daily supervisory responsibilities and who are the immediate superiors of the man on the beat. And I'm a citizen. That's why I'm aware of the need for responsible accountability for all of the organs of public administration. And as a citizen I strongly support a national code on the police use of firearms. I would hope that becomes one result of this conference. And I would also suggest that framing such a code be allied with strong enforcement of that code and provisions made for citizen participation in monitoring the effectiveness.

And I am a black man. So, I find it impossible to ignore the fact that so long as deadly force is used and so long as it reflects racial disparities, my life and that of every minority person is in danger. And I'm a lawyer. So, I know that this is an issue fundamental to the working of a democratic society. I know that it is an issue of legal and constitutional rights. And I know that it is an issue deeply bound up in moral and ethical questions that must be resolved by a free society.

We have a serious job to do. Quite literally people's lives are at stake. Keep in mind the deadly reality that somewhere in America right now a police officer is standing with a smoking gun while at his feet lies a civilian whose life blood is ebbing away. Know that we are not talking about abstractions. We are talking about human lives.

FOUR CASE STUDIES: SUCCESSFUL COMMUNITY-POLICE EFFORTS TO INCREASE SAFETY AND REDUCE USE OF FORCE

MODERATOR

Cynthia Sulton
Project Director
Police Foundation

CASE I
Fort Lupton, Colorado

Joe Martinez
Mayor

Prescilano Montoya
Chairman
Police-Community Relations Committee

CASE II
San Jose, California

Joseph D. McNamara
Chief of Police

Joaquin Brito
Associate Director
Mexican American Community Services Agency

CASE III
Seattle, Washington

Patrick S. Fitzsimons
Chief of Police

Jerome Page
President
Washington, D.C., Urban League

CASE IV
Port Arthur, Texas

George Dibrell
City Manager

Reverend Ransom Howard
Pastor
First Sixth Street Baptist Church

Case I

Prescilano Montoya

I was born in New Mexico and raised in Alamosa, which is in the southern part of Colorado, and I thought over there they discriminate against you because you are poor. I came to Fort Lupton in the early 1940's, when it was still evident that discrimination existed. The "White Trade Only" signs prevailed. Minorities sat in the balcony of theaters, and businessmen who employed minorities were boycotted by the Anglos.

In 1965, we had a Mexican-American shot by the police. He was taken down to the police station, handcuffed and dragged out of the car, and allowed to bleed to death without any medical attention. This so enraged the Chicano community that they joined an organization called the American GI Forum, and through this organization we presented recommendations to the city council, but the council threw them out as fast as we could produce them.

In 1970, the mayor and the city council authorized an investigation of the police department. I was named to head that particular investigation with one condition: I would not whitewash any of the findings. We took a 14-month period out of the police dockets, and we found out that Chicanos represented one-third of the population in Fort Lupton, which at that time was 2,300.

We also found out that the police were arresting us three-to-one. They arrested in that period of time 320 Chicanos compared to 159 Anglos. Most of the charges seemed to be drunkiness, and the ratio was 142 to 45.

We brought this to the mayor's attention, and he said, "You guys drink more than we do." I agree we like to party, but what about the Anglo? Where does he drink? The American Legion, the VFW, the private clubs? What happens to them? The mayor's answer was they take each other home, one blind man leading the other.

So even though we had these findings, the mayor and the town council refused to do anything about it. So I contacted the governor's office. He had a committee name the Respect for Law Committee, and they came to assist in Fort Lupton, but it was a political move. Nobody wanted to draw votes away from the governor.

So I went to the Colorado Civil Rights Commission and filed a class action complaint, and, with that, the mayor asked the Commission to do an investigation of the police problems in Fort Lupton.

The Commission then employed a state senator, Roger Cisneros, to do an investigation. The findings of Mr. Cisneros were identical to our findings since we both looked at the same books, the same police dockets, and the same pages during the 14-month period. He made several recommendations to the city council and to the mayor.

The mayor's answer to Senator Cisneros was: "We did not hire you. Why should we do anything about it?" So this went on. We started to picket the courts. This was the first time that a march had ever been conducted in Fort Lupton. We picketed the county seat and we continued to use every legal means we could to fight the system.

In 1971 somebody bombed the police station. I called it an act of God. Two days after the bombing, the police chief was suspended. One week later they fired him, and the wheels started moving. They replaced every police officer within that force, and I think up until today they replaced six more chiefs.

With that, I moved into the school system. I will tell you a little bit about that. But if you live in a small community every police officer has to answer to the community. Whatever decision the school makes or the city government or the police chief makes, the officer has to go home and live with his neighbors, and I don't think they can cope with it.

So we moved into the school system where they only had one Chicano school teacher. We got rid of the superintendent over there, and today we have got two Chicanos out of 110 teachers. I think out of the whole school staff, there are 208 and they have seven Chicanos. So we are very proud of that.

But, anyway, after the act of God, things started to happen. My brother was elected to the city council. That was in 1976. We had asked the businessmen of Fort Lupton to elect a Chicano before. Their answer was, "we never had one from that side of the track." Well, it so happened my candidate lived on this side, so his answer to that was, "We never had a Mexican on the city council, and we are not going to start today." So that took care of that, and we had to wait two more years for another election, and that is when we got my brother in.

After my brother, other Chicanos started to follow. The school board started to get Chicanos, and everything was going rosy except the police chief; they would keep replacing them. We kept telling the city council unless you hire capable men and are willing to pay for it, you are not going to get anything. Fort Lupton was the lowest-paid police department in Colorado, and the police were using it as a training ground and using the Chicanos as trainees. From there they moved on to higher-paid jobs.

So through the efforts of organizations like the American G.I. Forum and our Chicano mayor, who is sitting with me, we have been able to upgrade our police department, but our problems were not solved. We had no Chicanos in the police department, and then they started hiring some. In an eight-month period between 1977 and 1978, three Chicanos were killed, and saddest to say, it was a Chicano police officer who did it. Killers don't come in any color. I think you put a badge on them and a gun, and you have yourself one.

So I think Mr. Martinez will be able to carry out from the 1970's on up. I kind of dropped out of sight for awhile. I got too many threats and people asking me to go back where I came from. I didn't figure out where to go since all of my ancestors were born here, so I am still here.

Joe Martinez

I would like to maybe brief you a little bit on my community, and when I say "my community" I can proudly speak on behalf of the thousands of little towns that make up rural America. Our problems are somewhat different than those of Seattle, San Jose, or Port Arthur, because we don't have the resources available to us that big cities do, but our problems are just as real. As Pres has mentioned, we have had a lot of problems.

In 1972, I was selected to the city council. I was fortunate enough to win a four-year term. Prior to that I had worked in recreation so I had made a lot of friends in the Anglo community. They would say, "Well, Joe does a good job," and that gave me a chance at the city council.

The major, who, in my opinion, was a very fine man, appointed me to the police commission. I thought to myself, "God, what do I know about police other than the fact that we have had a lot of problems with them." So I said: "O.K. I will take on the position, and when I do I am certainly going in there and will straighten this thing out."

Well, it was not that easy because I found that the resources were not there. I was one vote out of six. Things went pretty well; as Pres had mentioned, we went through seven chiefs in seven years.

Now, probably you will say, "what kind of community do you have down there?" Basically, we have a very good, sound community. We have some very, very good Chicano people who are very interested in their community. We have some very good Anglo people who are interested in their community. And they work hard.

But we are geographically located 26 miles from Denver, 26 miles from Greeley, and 20 miles from Boulder, with two major highways, one going east and west, and one south and north. So we do have a lot of traffic going through there.

We are the center of the migrant stream. Most of the migrants coming in to do field work locate within the Fort Lupton area. So in 1972, when I became a police commissioner, they had just fired the chief that Pres was talking about, the one who had been there for many years and had done a very, very poor job. A second chief was hired. He came on, and he was a very decent man, a very good man, in my opinion, but he was trying so hard that he was getting very, very lax. He was not able to satisfy the Chicano community, and was unable to satisfy the Anglo community.

Even though I resisted having this man replaced, I went along with it because I could see he was not effective. We hired our third chief. Things went fine for about three months. He was able to take direction from the police commission, which is made up of people from the city council, and they are lay people so they do not know the fundamentals of police work.

This is what happens in small communities. We don't have the resources. We don't have the training for either council or mayor or anything because we just don't have that. This is why it is so important that we have these conferences. These seminars are very beneficial to small communities.

We hired this third chief. Things were going fine. He started to use a little force. I said to him, "Slow down. Now, that is not the proper way to do it." He said to me, "You are not my police commissioner. I take orders from the commission."

I said, "No, you don't sir. You are going to take orders from me." Well, things didn't go too well. I told the mayor, "He leaves or I leave, one of the two."

The major said, "You can't possibly leave. Do you know what would happen to this community if you leave? I said, "It is your choice, but I cannot be a subordinate of a police chief who is going to tell me he is going to do it his way." Finally, he left.

We hired our fourth chief for about another year. After being in office about eight months, we had our first fatal police shooting, and I felt, "Well, God, maybe they just had no choice and it happened."

It wasn't four months later we had another police shooting and I thought, "My God, in my term as mayor. Now, here is a Chicano Mayor who has been against police brutality all his life and now this is happening under my administration. What in God's name are we doing wrong?" I thought maybe it is just an unfortunate incident again. We dismissed that chief because in my opinion he was not doing a competent job.

Well, at that time we said, "We are not going to hire any more police chiefs until we have the proper person coming up." I went to the district attorney's office, and I said, "Sir, we really don't know what to do. What do we do next?" He says, "Bring up the next guy in rank and put him in charge until you are able to hire a police chief."

We did, and that is when our problems really started. We had the third fatality, and I said, "Oh, my God, we are ruined."

My secretary calls and she says, "Mr. Martinez, there is a fellow by the name of Art Montoya from the Justice Department who would like to talk to you." I thought, "Oh, this is all we need. The Justice Department will come and scrutinize everything we have been doing."

I said, "Certainly, I will talk to him." Art came in and I expected to see a guy pointing the finger and saying, "By golly, how bad you are."

Instead he came in and said, "What can we do to help you?" Certainly that was the key word for me because we needed all of the help we could get. Art came in and he said, "O.K. Is it all right if we come in and point out your weaknesses and also let you know where you are strong."

I said, "Certainly." So Art worked with us over a year, and I take my hat off to the man. Many times he was there until three or four o'clock in the morning when we had threats of another police building bombing, threats that somebody was going to kill a cop that night, and on and on, and Art was certainly very, very instrumental in that.

After that he said, "Joe, you can't possibly put another interim chief in there, not from the ranks. You have got to go outside the city."

I said, "Where do we go to?"

He said, "Let me get in contact with Arvada. I will talk to Police Chief Bill Holtizar." I said, "Arvada doesn't give a darn

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about Fort Lupton. They are a nice community of fairly well-to-do people. What are they going to do with a community that has the reputation of being very bad? The media has torn us completely apart."

But I was wrong. Chief Holtizar sent us an interim chief. When he came in, I said, "What I want you to do is evaluate our police department. You tell me what is wrong because I don't know."

A month-and-a-half later he said, "Mr. Martinez, what is wrong with your police department is that you do have the potential for having a good department, but your officers are undertrained. You don't have a good administrator."

Fine, with our small city budget, money becomes a big issue. What are you going to do? What are we going to pay the next guy? We hired our sixth police chief. He came in and took over. Things went fine for about another year. I said, "Oh, my God," when he chose to resign because in a small community you hear rumors and I am so used to rumors that every time I hear something, I say, "Where there is smoke there is fire. Something is going on."

He chose to resign, and I said, "Art, can I impose on Arvada again to help us?" He said, "Yes." Here comes Arvada again. They sent us another super person, in my opinion, to take over and help us until we were able to get over this hump and hire our own chief, which would be our seventh.

We did exactly that only this time we hired one from Arvada. Hopefully, that will be the last one for awhile, but in closing, this gentleman here, who, in the opinion of the community for many years was known as the troublemaker, the big mouth, who went out there criticizing the system, and who was known as a radical, a month ago we gave him the Citizenship Award for 1979.

And I will tell you why we gave it to him, not only for his efforts through the years to point out the problems but also to contribute what he could to help us. We had a demonstration in May of 1978. The young people were protesting police brutality, and I called Art at that time and he attended the demonstration, and he did a good job of telling me how to act, what to say.

When they asked me to approach the demonstrators, I felt so scared. I said, "What do I do? These are my people. What am I supposed to say to them?" I approached these people and they were mad, and they were getting to the point where I thought, "God, what is going to happen here? Do we have to call in the forces to settle things down?"

The little guy who stood up here just a minute ago came across the street, stood at my side, and he said, "This is my community, Joe, and I will help you all I can to straighten out our problems."

And this is why I felt so strongly that this is the type of person who is entitled to a Citizenship Award.

And I would like to just say in closing to you, the big cities, if you have the opportunity to lend a helping hand to a smaller community, do it because they are short of resources and you people can certainly play a big role in helping small communities .

Case II

Joseph D. McNamara

It should be a fundamental policy of every police jurisdiction that, collectively and as members of their many community organizations, citizens must have access to, and cooperative relations with, their police department. The goal of this policy: Police practices which uphold the civil rights of all citizens while assuring maximum levels of service and safety for all city residents.

The benefits of strong police-community relations are of enormous significance to every city, creating an atmosphere in which more people choose to live, reducing crime, and minimizing tensions among ethnic and community groups.

The San Jose Police Department has worked diligently in recent years to develop responsiveness to the citizens it serves.

At least seven necessary elements exist in developing strong relations between the community and police department. Each of these has been developed in San Jose over a period of some years, with demonstrable benefits.

First is the commitment of the city council, city administration, and chief of police to the need for close cooperation among citizens and police, to allocate resources necessary in developing cooperation, and to support oftentimes controversial and fundamental changes in police practices. Obstacles to change are inclined to come from within the department itself, necessitating careful development of policy, consultation and agreement among department employees, and the strength of city officials to uphold decisions once arrived at.

Closely related in many respects is the ability of the chief of police to be both a community leader and the strong leader of his department. Direct participation in the affairs of the community by the chief and department employees assures interaction with individual citizens and community groups, resulting in understanding, and appropriate police practices.

Most important to the development of rapport is the sensitivity of all police personnel to the varied neighborhoods, cultural and community groups comprising the city, each requiring a distinct, specialized response. High levels of sensitivity and interaction with all segments of the city will lead the department to develop responsive programs.

Potentially the most damaging of all factors to cooperative police-community relations, and certainly the most reprehensible, is indiscriminate, excessive use of force either by citizen or police officer. Clear policies and procedures must be implemented by the police department to abolish any inappropriate use of force in the conduct of police duties.

In order to serve the population well, a police department must make every attempt to develop a police force representative of the minority community of the city, including a high proportion of female officers. Only when it is clear to minority groups that they are welcome in all levels of police administration is the message conveyed that the department cares to serve their communities.

Next is the commitment of the department to provide individuals and community groups the opportunity to air grievances, recommend policy, and participate in the planning of police services. Access to the department must include access to all levels of management. Likewise, citizen groups must permit the department to join them in analyzing the need for police services and the role their members may play in developing the community's security. Open door policies need not be limited to government.

Finally, police department management must be able to require the adherence of all employees to the reasonable policies and regulations it establishes to develop rapport with the community. Personnel changes should, in part, reflect the degree of staff's commitment to, and accomplishment of, goals in achieving community relations. Closely associated is the necessity of the department to obtain cooperation of police unions in carrying out the policies and programs which enhance community rapport – particularly those dealing with equal employment opportunity.

By conducting efforts in some six different areas in the past three years, the San Jose Police Department has developed a strong program of police-community relations. The basis for the program rests with community involvement and interaction with community leaders.

Through participation in a number of community organizations, the chief of police has developed communication with other community leaders, enabling better understanding and cooperation with the police department while indicating areas for program development by the department. These organizations include, at the local level, the Victim Witness Assistance Program and its parent organization, the National Conference of Christians and Jews; the Mexican American Community Services Agency; Women's Alliance, which operates programs for battered women and their children; and the Police Athletic League, which conducts recreational programs for youth.

The police department also encourages its personnel to represent it on a number of advisory boards and organizations, including the County's Coordinating Council on Services to Victims of Sexual Assault. This participation has resulted in improved cooperation between the department and many community service providers, as well as improved programs.

Communication is not limited to membership in organizations, and the chief and department management have frequent contact with religious, minority and community group leaders to maintain dialogue concerning the department. All community groups are encouraged to have frequent contact to share concerns and are frequently consulted with before establishing department programs.

The community is given a formal mechanism to participate in the police department's planning process through the Criminal Justice Needs Assessment Team. Membership in this group will be expanded in the coming year to include a greater number of community groups and private citizens. At this time, the Assessment Team is composed of other criminal justice agencies, educators, community groups, and business representatives.

Mentioned earlier was the Victim Witness Assistance Program which the department has played an active role in developing to its current high level of service. This organization identifies and provides service to the victims of many crimes in San Jose, assisting in obtaining required services, including compensation. Additionally, the program actively seeks anonymous information concerning crimes from those who witness them, and provides service to witnesses when necessary. The program has been an enormous asset to the department both by providing information on cases and a level of service to citizens beyond the city's abilities. Likewise, the department has assisted the program in obtaining grant funds, State reimbursement to victims, and generally in developing its procedures.

Bearing on its community involvement is the general level of visibility of the police department and its officers. The public's exposure to the department is greatly limited unless efforts are made to maintain frequent contact. Many of San Jose's efforts in this area will be discussed later. To provide exposure police department operations receive extensive coverage by the local press, educating the public and providing a convenient forum for discussion of mutual concerns.

Fundamental to developing cooperation and respect between citizens and police is assuring that police officers have daily contact with residents. However, contact cannot be limited to writing tickets and law enforcement. To the extent possible in a large urban area, the police must leave their patrol cars to meet with the people they are protecting. Whether on foot patrol or having coffee with citizens, San Jose police officers are available to provide more than a response to a crime or problem already developed.

As discussed earlier, there is no better measure of the police department's willingness to respond to the various minority communities than its accomplishment of equal employment opportunity goals. The San Jose Police Department has made an extensive commitment to and progress in achieving its goal of a representative police force. In the past three years, the city has increased its representation of minority groups by 51 percent, and the Spanish-surnamed by 64 percent.

These achievements are the result of a number of programs conducted by the department. In 1977, the San Jose Police Department voluntarily entered into a consent decree with the federal government, establishing a program for hiring of Spanish/English bilingual police officers. The goal of the decree is attainment of a 22-percent bilingual police force. In order to accomplish the goal, the department requires that one-third of each academy class be bilingual, and that all academy and police officer positions vacated by a bilingual be filled with a bilingual.

The department also operates an extensive minority recruitment program, currently being expanded to include women. Close contact is maintained with all schools, minority and community groups and job placement centers to attract qualified applicants.

The police department realizes that minority group members often do not have the educational opportunities and have not attained the educational requirements for its officers. To deal with this problem, a Bilingual Police Trainee Program has been developed permitting bilingual participants to enter at a reduced educational level, and receive intensive training in many aspects of police work while completing educational requirements.

Having completed all training objectives, the trainee enters directly into the police academy and full-time employment with the police department. To further enhance the program's community relations value, trainees are to perform extensive community crime prevention work, emphasizing one-on-one citizen contact to reduce burglary in particular.

Equal employment opportunity becomes a reality only when minority group members are adequately represented in higher ranks and management. The department pursues policies and specific programs to assure access of minority group members to all ranks. It also evaluates its employees and makes personnel decisions which in part reflect this accomplishment toward equal employment opportunity goals.

To increase their understanding of the requirements of dealing sensitively and effectively with citizens, police officers receive regular training and instruction in two key areas.

Annually, all police department personnel have received training in cultural awareness and sensitivity, developing attitudes and skills enabling them to respond with high levels of service to the minority community. A significant amount of police academy training is given over to this same purpose.

Consistent with the department's absolute requirement that appropriate levels of force are used in all police activities, police officers receive annual training to develop skills in proper handling of violent situations. Specialized department units, which deal with potentially volatile situations on a regular basis, receive more frequent and specialized training from department personnel certified to instruct in approved methods.

The disciplinary policies for inappropriate use of force are established and rigidly enforced by the internal investigation unit.

The internal investigation function has traditionally been a controversial and complicated one. The ability to deal with citizen complaints against police officers has been particularly problematic. San Jose has dealt with this problem using various means.

The community looks with justifiable suspicion on investigation of citizen complaints against a police officer by a fellow officer. It is more difficult to expect an objective review by one white officer of the performance of another white officer in a complaint that was filed by a Spanish-surnamed individual. Therefore, San Jose has hired civilian, bilingual and Spanish-surnamed staff for internal investigations to further assure a response to citizen complaints.

Citizens are also reluctant to visit internal investigation units in a police department headquarters where they sense the target of the complaint or fellow officers are present. To minimize stress and provide anonymity, the police department has moved its internal investigations unit away from the police administration building to a nearby, commercial office building containing no other police units. Further strengthening the internal investigations function, despite the time-consuming process involved, is the commitment of management to discipline police officers who mishandle their contacts with citizens.

The best approach to law enforcement and crime prevention is not always to apprehend and prosecute the offender, but to reduce the opportunity for him or her to commit the crime. Residential burglary is the most frequently committed crime in San Jose. Preventing burglary requires active participation by citizens in securing their homes with guidance from the police department. Beginning with a federal grant in 1978, the police department has developed a community-involved law enforcement program successful in motivating residents to secure their homes and establishing daily contact between citizens and police officers.

A citizen survey has established that through an $80,000 "Citizens Awareness Program" employing media, mailers, and meetings between officers and neighbors, 18 percent of residents were made aware of successful methods of burglary prevention. Requests for crime prevention presentations by police officers have outstripped the department's ability to respond, both an encouraging and discouraging result of the program. Nevertheless, crime analysis in neighborhoods targeted for crime prevention activities has evidenced the ability of community-involved crime prevention to reduce residential burglary by as much as 43 percent in one beat.

In recent years the department has been involved in a variety of projects impacting police-community relations. Some are worthy of particular note. In July, 1979, six months after its creation, the police department disbanded a "juvenile-gang task force" developed to reduce a clear threat of youth gang violence in a heavily populated minority area. Community concern was expressed very early in the operation that the confidentiality of juvenile records and civil rights of juveniles were being compromised by the department.

The department realized the potential for violence committed against youths was *prevented* using the task force. Because information gathered using the operation was fragmented and useless for law enforcement purposes the task force was disbanded and all files sealed.

Closely related in recent months have been large youth gatherings and cruising. Tensions have run high between police and cummunity groups in efforts to avoid confrontations and violence. Police officers have been commended numerous times for their discretion in handling this delicate situation. Accusations of brutality and mishandling have come from some community groups. But the department's commitment to avoiding violence and abuse of civil rights, while protecting its officers and enforcing the law, is absolute.

In dealing with all such matters, in all neighborhoods of the city, the department and community leaders continue their search for suitable role models to organize and motivate youth.

A serious threat to residents' civil liberties also presented itself in October, 1977, with a rally by a local Nazi organization in a downtown park. The city council arrived at an extremely difficult but understanding decision to grant a permit to the rally – upholding First Amendment rights. To assure the safety of all citizens, police were present at the tense event, receiving much abuse. Again, all sides and the police exercised considerable restraint in the interest of security.

The department can point to at least three results of its efforts in developing police-community relations. As of September 30, 1979, citizen complaints against the department and

officers have been reduced 291 percent from their rate in 1976. This significant decrease is largely a result of increased awareness and skill of police officers and accountability of supervisory personnel for the actions of their personnel.

Satisfaction of San Jose residents with their police department has been documented in two recent studies. First is a report entitled, "Alternative Strategies for Responding to Police Calls for Service, An Analysis of Citizen Attitudes Toward Police Response: The San Jose Experiment", published by the Birmingham Police Department in December, 1978.

In this study, 600 citizens who had called the police department for service during May and June 1978, were contacted in a telephone survey. Respondents were asked to assess the quality of police services in San Jose. Overall, 75.3 percent believed services were "excellent or good" while 7.5 percent found them to be "poor or terrible." Of this total, 64.1 percent of blacks and 71.0 percent of Spanish-surnamed assessed police services as "excellent or good." Asked for their level of satisfaction with police services after the police arrived on the scene, 84 percent of 561 respondents indicated they were "satisfied or very satisfied" and 13.7 percent were "dissatisfied or very dissatisfied." Eighty percent of blacks and 11.5 percent of Spanish-surnamed were "satisfied or very satisfied."

The second study, "Attitudes About Police Service in the City of San Jose," was conducted by the department in March, 1978.

In this case, three groups of citizens were contacted: the first drawn randomly from the phone directory, the second from citizens who had recently called for service, and the third from citizens who had recently been cited for moving violations.

Seventy percent of respondents described their personal contact with the San Jose police prior to the survey as "positive"; 16 percent as "negative." Forty-three percent felt the San Jose police use physical force appropriately all or most of the time; 35 percent responded "don't know", and 5 percent "seldom or never." Seventy percent of citizens indicated the San Jose police are always or usually fair in dealing with the public, 3 percent that they are seldom or never fair.

And finally, the level and frequency of contact between department management and community leaders is considerably higher than at any time in the past. Community leaders have praised the department regularly for its responsiveness to the needs of all citizens of the City of San Jose.

Miguel Donoso
(Substitute Speaker)

(Mr. Donoso delivered his remarks in Spanish. What follows is a summary by a bilingual volunteer).

I was just briefly listening to the speech and basically what he said is that he is not here either to defend or be against Chief McNamara, but he is very interested in seeing that although some progress has been made in San Jose between the community and the police department, it is not up to par as we would all like it to be. But some progress is being made.

His main concern, which he is very, very interested in, is our Mexican-American young people, known as a group of "Cholos," which is like an extension or continuation of the "Pachuco" era during the 1940s, which ended in the 1950s, thereby bringing in a new era of Mexican-American young people.

Some problems that he is concerned with stems from being labeled. And what he would like people to understand is that these young people are an extension of the Pachuco era, which was not a very popular era in the Mexican-American epoch of the 1940s. Therefore, he would like to see more sensitivity because one of the problems they are faced with is lack of education.

The highest grade that some of those young people have reached is high school because in San Jose, particularly, there is a very high rate of high school dropouts in the Mexican-American communities. But he is very interested in seeing that all that gets improved. That is what he geared his speech towards.

Case III

Jerome Page

Seattle, like most other cities, has experienced a number of police homicides over the years. Unfortunately, I think there has been about one every 18 months. I am sure in New York, Chicago, and large cities the number is greater, but remember Seattle has a very small minority population, and one every 18 months is a pretty frightening number.

There is the typical pattern of the white police officer shooting a minority, usually black, victim.

During the past few years in Seattle, there has been a public outcry in the minority communities and a clamor in those communities for greater restrictions on police use of deadly force. And in those same communities there have been prolonged increases in community tensions and worsening of police-community relations.

For many years the Seattle Urban League and other groups have protested the several police homicides and have repeatedly called for changes in the deadly force policy of the department. Little action was taken until we in the civil rights area focused on the specific issue of use of hollow-point bullets during 1973-1974.

The city council, during 1974, debated at length the use of hollow-point bullets, thus paving the way for a debate on the larger issue of deadly force. At the conclusion of these deliberations, the council recognized that more important than the type of ammunition used was the issue of when and under what conditions deadly force could be used by police officers at all.

Concurrently with these deliberations, the city was negotiating with the Seattle Police Guild, which is the police union. The guild attempted to include the state law on firearms use in the city-guild contract. The state law gives officers the widest possible latitude and discretion in the use of deadly force. The intention of the Police Guild was to prevent the city's elected officials from establishing a shooting policy.

In spite of the guild's efforts, in October, 1976, the arbitrator in the city-guild negotiations ruled that the development and adoption of a shooting policy was the responsibility of the city's elected officials. I think that was an important point for the city, to insist that it was the responsibility of elected officials to establish the policy.

The ensuing policy development process extended over the next 16 months, involving the city's policy planning division, police department administrators, and a coalition of civil rights and church groups organized by the Seattle Urban League and the American Civil Liberties Union.

Each group involved drafted its own version of an appropriate policy for use of deadly force. In the case of the Seattle Urban League, considerable technical assistance was provided by the regional staff of the Community Relations Service of the U.S. Department of Justice.

In January, 1977, Mayor Wes Uhlman submitted his recommendation to the city council regarding the deadly force issue. That policy was based primarily on the recommendations of the city's Policy Planning Division.

Public hearings on the issue were held in July, 1977. The coalition of civil rights groups lobbied and gave testimony for the Seattle Urban League-ACLU policy. We had, in the meantime, come together on one policy, which was the most restrictive of all being discussed.

Due to council review and adoption of the 1978 budget during the fall of 1977, a protest precluded discussion of almost all other issues, and a decision regarding the deadly force policy was postponed until January, 1978.

By that time a new mayor, Charles Royer, had been elected. He had run on a populist platform, including an outspoken support for the ACLU-Seattle Urban League proposed policy. The mayor submitted his own policy to the city council, a policy identical to ours, and that policy was adopted by the Public Safety and Justice Committee on January 31, 1978.

Public hearings were held by the committee in late March. Again, the civil rights coalition organized support for a restrictive policy and testified at length at public hearings.

On May 1, 1978, the city council enacted a new policy on the use of deadly force. The new policy was less restrictive than that which had been proposed by the mayor and the Seattle Urban League coalition, but considerably more restrictive than the policy advocated by the Police Guild.

Even though it wasn't our policy, we considered it a major victory in the history of Seattle. Shortly after the enactment of the new policy in Seattle, the Police Guild drafted, sponsored, and financed a citywide initiative to rescind the new policy and return to the old less-restrictive policy. The initiative was passed by the voters in the November, 1978, election by a moderate margin, 56.5 percent in favor and 43.5 percent opposed.

That was a devestating defeat, but I would propose that most of the people voting didn't understand the issue and what they were voting for. They thought that we were proposing to take weapons away from the police altogether, which was not the case.

Although the restrictive policy was rejected by the voters, the issue of deadly force was a focal point in the selection of a new police chief for Seattle. In the summer and fall of 1978, during a national search for candidates, the mayor indicated that he would not recommend the candidate to the council unless the candidate was strongly in favor of a restrictive deadly force policy.

A citizens police chief selection committee, formed by the mayor and representing diverse points of view in the community, echoed the mayor's concern in its screening of all of the candidates for the position. The candidate recommended by the committee and by the mayor and confirmed by the city council, Police Chief Patrick Fitzsimons, recently reminded the Seattle citizens that there are a lot of people in the city who did not vote for the less-restrictive policy. That is, the Police Guild initiative.

In summary, it might appear that Seattle went full circle from a policy determined by the police department, to a short-lived, restrictive policy determined by the city council and the people, and back to a policy determined by the police department. This essentially negative view, however, would overlook some of the benefits derived from the persistent pursuit of the deadly force issue by the Seattle Urban League and other groups.

The Seattle Urban League board of directors was sensitized by the deadly force issue over a period of time. So board members, like many others in the community, had been relatively unaware of police homicides and the extremely negative impact of those homicides, not only on those directly affected but on the entire community and on the police-community relations in that city.

Secondly, a lengthy debate over the various shooting policies proposed enabled the Seattle Urban League and other groups to provide decision-makers and the public with a wealth of information regarding not only the issue of deadly force but the larger issue of police-community relations as well.

In this regard, it should be noted that the U.S. Department of Justice, through the regional staff of the Community Relations Service, was extremely helpful to the Seattle Urban League and the groups involved. It provided technical assistance to ameliorate community tensions during and after the police had gone to homes, provided valuable information and assistance to the staffs and the groups developing the policy, and held workshops and community debates with all those concerned.

Seattle now has a highly-regarded police chief, who from the evidence to this point, is sensitized to the deadly force issue and to the larger needs and concerns of the minority communities. It is my opinion that the full circle has been broken by a sensitive administration in the selection of a police chief, and by a chief who to date has been in the process of policy-setting for the police department. I cannot attest at this time whether that has continued, but as of a year or nine months ago, we were in very good shape.

Patrick S. Fitzsimons

As you heard, I came to Seattle about nine months ago, right after an initiative on the use of force. It was on the ballot in November. As Mr. Page told you, the position favored by the Seattle Police Guild won, and that set the shooting policy in the city so that it followed the state law, a very broad statute. A somewhat restricted statute at the city level, which allows a police officer to shoot to arrest a fleeing felon who has committed an inherently dangerous felony.

One of the things that I had to do when I came to Seattle was to be accepted not only by the community – and the community was involved greatly in the process of picking a police chief – but also to be accepted by the police department as someone who could represent them well with the community, with the mayor, with the city council. I would submit to you that a police chief can't be very effective if he cannot have a leadership role in the police department. So one of the things a chief must do is earn the respect and the support of the police department as well as the community.

So my first few months in office were spent getting out to the community, being seen and heard, but also getting out to the police stations, stopping in the squad rooms and the back rooms in the offices, sitting down and talking with the people who work in the police department, so that they could get a sense of who I am, what I stand for, and what kind of person I am.

To date, nine months later, I feel that I have the support of the community, and I feel I have the support of the police department. It is a very good police department, and it is very, very professional in many, many ways.

One of the things I did almost immediately was to begin to emphasize the positive in regard to the shooting policy. When I was being selected, I said publicly that I favored a more constrained policy than that the Police Guild was proposing because I felt it would prevent tragedies, but also prevent injuries and death to police officers. The initiative to the rest of my position when I came in was to emphasize the positive. So I did two things. I reminded police personnel that the vote in their favor should be taken as a very sacred trust. The people that voted for them placed a sacred trust in their hands. It is an awesome responsibility and officers should be even more careful because they had the support of the voters.

I also reminded them, as Mr. Page pointed out, that an awful lot of people did not vote that way, but this business of emphasizing the positive is important because you will find that police officers face many, many violent confrontations. They face many, many armed situations, and they will handle most of these without firing a shot. In well over 80 percent of armed confrontations where the suspect is armed, the police officer makes the arrest without firing a shot. So you have to emphasize the positive, emphasize the professionalism and keep reminding them that it is their professional judgment that is on the line, and that they have to exercise extreme care with that awesome responsibility.

I took about four or five months to start to pick staff, but after I had been out in the streets and watched them perform, had been into the station houses and with the community, I made some administrative changes.

The first thing I did involved the internal affairs section, which did not report directly to the chief of police. It does now. The second was that the chief previously did not review all complaints. We do now.

I also had an administrative rule enacted which states that if force of any kind is used, an officer will call the sergeant to the scene and a report will be made out on the use of force. This has, I think, a very beneficial effect because I don't think policemen really like to write reports. But one of the things that you find, after-the-fact, when unlawful force was used is that there was never any report of it. So at least I have a clear violation of department policy if we find that force was used and the proper reports were not made out.

The firearms situation in the state of Washington also is unique. Almost anyone can have a firearm, and almost anyone can get a permit to carry a firearm. The only people you can deny permits to carry firearms are people who have been convicted of violent felonies. So a convicted felon can actually, under the law, get a permit to carry a firearm, and it would be legal. And one of the things that you must do in considering this issue is to consider the level of violence in our society, because we have ever-increasing homicide rates and robbery rates, and more use of handguns. That should also be a target of this group because you have to take the violence and fear out of the city in order to modify some of these tragedies that we see that are caused sometimes by fear.

The other thing that I found when I arrived was that there was no in-service training program. The city of Seattle had some hard economic times and its police force had been cut back to 250 sworn officers, and one of the things to keep people out on the street, one of the things that went by the board was the in-service training program.

Every place I went, people in the community were asking for more sensitivity training, more cultural awareness, and it is just inconceivable that you can run a very professional police department without having in-service training. So one of the things I built into this year's budget was five days of training to reinstitute the in-service training program. That has been approved, so I will have that.

The other thing that we are doing, which is kind of unique, is working with a group called September & Associates, which has developed a training module on "Shoot or not to shoot." It is keyed on the decision, and it is keyed on crisis, and the stress that is induced when a policeman responds to an emergency call. A demonstration will be given here tomorrow at 3:00. I suggest you see it.

September & Associates is a multi-media firm based in Seattle, a black multi-media firm, and I think they have a very unique product. It has been reported in the September issue of the *FBI Journal*, if you can get a copy of that. It is good that it is in the September issue because that is the name of the firm, and it will help you to remember it.

Another situation that I found was that the recruitment of minorities into the police department had a stumbling block in the civil service system. A test would be given and a register produced, and that register would be in effect for two years or so. If there weren't enough minority candidates on that list, you were just out of luck.

In the last eight months I was successful in working with the Public Safety Civil Service Commission to change that to open, continuous testing. So that I can now beat the drum a little more loudly in those communities where I need to get the applicants, and I am doing that now. It is a difficult thing, and I am asking for all of the help I can get.

I have a director of personnel who is black. He formerly reported through the chain of command. He now reports directly to me. I have a recruiting sergeant who is a black officer, and the whole recruiting team is made up of Hispanics, Asians and women. We have budgeted some money this year to see if we can't do a better job of bringing minority people into the ranks.

The problem begins with taking that test. We have now broken that roadblock so I feel if we can get enough people to take the test and tests held more frequently, we will get more applicants.

Since I have been in Seattle, I am pleased to tell you that I have hired some people. Twenty-two percent of them were minorities. We normally add about 80 or 90 officers a year to the department. Twenty-two percent of our hires have been minority members so far.

Again, I think you will find there are many, many professional police officers who are out there trying to do the job in dealing with a situation in which crime is escalating and violent crime is escalating. And I say to you, if you have real concern, you encourage those professionals to do the job right and emphasize as much as you can that professional responsibility. Every time they do the thing right, tell them they did it right.

We had a jail break in Seattle some months ago, engineered by a terrorist organization. Some eight people got out of the county jail, which was near police headquarters. They got to two cars. They were heavily armed with automatics, M-18 fully automatic rifles, M-2's.

There were many, many confrontations throughout the city in the course of the next hour or so. There were many times when police officers could have fired their weapons. But there were citizens who would have been endangered and the police officers did not fire.

In confrontations that did result, one police officer was shot three times and one of the men who broke out of jail – five of them were convicted killers – was killed and two others were wounded. But in all of the situation with these eight armed people out on the street at one time, and there were five different confrontations, the amount of restraint shown was also remarkable. So I immediately emphasized all of those situations where the policeman could have fired his gun and did not fire his gun. So, as I said to you before, I think Seattle is a very, very beautiful city. I think the people in the city of Seattle are very interested in their government and their police force and in the quality of life. I think that they have a good police department. We are going to work to make it the best police department that we can.

Case IV

George Dibrell

I appreciate the opportunity to be here today to report on a very serious matter that took place in Port Arthur, Texas, some four years ago. This is not a new occurrence, but it is a matter that still has the serious interest of the community and a continuing effort on all parties involved. For those of you who don't know about Port Arthur, Texas, it is a medium-sized city of about 65,000 population. It is located in Southeast Texas, about 90 miles from Houston.

In 1970 the citizens profile indicated a make-up of 60-percent white, 40-percent black, with about seven percent Mexican American, and now we have a nice sprinkling of Vietnamese. So although we are a small city, we are a nice cosmopolitan-type city that has a lot of the problems and the challenges of the large central cities in the Northeast. We are an industrial city. We are the home of Gulf Oil and Texaco; they have two of the world's largest refineries in Port Arthur. If your cost of gasoline goes up, maybe we might be partially to blame, but there are other factors, of course.

We are a seaport town. All of these dynamics and internal workings affect a city from a law enforcement standpoint.

Now, our crisis, as I indicated to you, is not a new one. It happened December 29, 1974, and I can almost remember, every December, when the chief of police called me about 4:00 in the morning and said, "One of our men has fatally shot a man who attempted to escape from our jail." Every year I recall that and, of course, it is constantly with me during the year.

The situation developed as a young black man was arrested for a minor charge – disorderly conduct – taken to the city jail and booked; while he was being booked, he made a break. He attacked an officer, grabbed a hostage and later broke from the jail and was running from the jail some block-and-a-half or two blocks.

Four officers pursued him and in the pursuit one white officer shot him fatally. Now, that is a case very similar to what we heard in the opening statement by Mr. Jordan this morning, and it happens many times across the country.

Immediately the police chief calls an interim investigation to get the facts. At the same time, the matter was referred to the Jefferson County Grand Jury for an independent investigation by the district attorney.

As word spread, there was substantial anger and hostility developing almost immediately from the black community. Marches began. A 300-member protest took place at a local church. There were protest marches in front of the city hall and the police station, and council meetings were packed with protestors. Also during that time, vandalism developed to a somewhat serious extent.

Later the protest shifted from the large groups to a group of prominent black community leaders. Then on January 2, this group presented a letter to me as city manager, demanding that the chief of police be terminated, and that the four officers involved be dismissed from the force.

I responded to that with a counter-offer and declined to terminate the chief of police or the four officers. The four officers were under investigation by the grand jury and the chief of police was conducting that investigation. I proposed that a full report of the investigation be made to the concerned black citizens of Port Arthur when the grand jury investigation was completed.

I proposed that the chief of police take appropriate legal action against any officer indicated. I also proposed a bi-racial committee to improve communications and point up problems between the police department and the community, and also the creation of a procedure whereby community-police grievances would be received, investigated, and reported to the Civil Service Commission for review.

This counter-offer was accepted in part and declined in part. At this time, the Associated Press and the UPI picked up the story and began circulating it throughout the country. A representative of the Community Relations Service in the Department of Justice picked up that story and sent a representative in to visit with the city.

He met with me, went over the CRS program, explained the CRS procedures and how it worked. I, in turn, took it to the city council and explained it to the council, and they accepted the procedure.

At the same time, the CRS representative met with a concerned citizens group, went through the process, and it was accepted by the concerned citizens. Two negotiating teams were formulated. There were five negotiators; the city's negotiators were the city manager, the city attorney, the police chief, the personnel director, and the chairman of the Civil Service Commission. The negotiating team for the other side was made up by the chairman, Reverend Howard, and his group.

I think it is important to point out that, at this time, there were two important conditions that the Justice Department required before they would come in on this situation. The first was that the conflict must come off the street. It must come around the negotiating table without any further marches. And the second item, the dismissal of the chief of police was not negotiable. Those were the two requirements by the Justice Department before they would come in. This was acceptable to both parties.

Now, in the meantime, the grand jury returned no bills against the police officers, but had the district attorney to do a detailed factual report for the public.

I might say that the firearms law in Texas dealing with this particular instance provides that a peace officer is justified in using any force, including deadly force, that he believes to be immediately necessary to prevent the escape of a person from a jail, prison, or other institution for the detention of persons charged with or convicted of a crime. Obviously, this puts the question of the use of force subjectively in the police officer's mind and does not raise an objective test as to the use of firearms.

After the grand jury report, the CRS representative began setting up the agenda for the negotiations, and that agenda consisted of four main areas of discussion. The first was the firearms policy and use of deadly force. The second was effective police-community relations. The third was arrest and detention procedures, and the fourth was minority recruitment and utilization. Those were the four main issues that would be handled in a CRS mediation procedure.

This mediation process took five months, and we had 18 meetings, and I might say initially the meetings were very emotional. Tension was great. But it was a free-wheeling discussion where everybody got out on the table what their problems were.

As a result, we concluded in June a statement of results of mediation signed by both the chairman, the vice-chairman, the meditor, the mayor, and approved by the city council, and that included statements of policy on those four issues that I just covered.

I might say it has been four years since we had this serious incident, and the problem, of course, is not only devising a policy but also carrying it out. Since that time, we have not had any serious issues come up with the police department. We think we have closer communication with the various minority areas than we have ever had, although Port Arthur is not a city where we have had a great number of fatal shootings -- for instance, in the last 25 years, other than the one just discussed, there has only been one that I believe has taken place.

Port Arthur is completely sold that the CRS mediation procedure under our situation is a mechanism that you can get into the difficult problems, move the matters from the streets to the conference table, and solve them.

Rev. Ransom Howard

I will take maybe four minutes, and if there are questions that deal with anything our city manager has said or anything that I have to say, I shall attempt to answer those. The case study which causes me to be here, began on or about December 29, 1974, when Clifford Dexter Coleman, a black male, age 23, was approached at a Jiffy Mart convenience store by two police officers for questioning concerning an incident which occurred on November 26, 1974, an alleged failure to identify as a witness.

Coleman locked himself into an automobile in which he was a passenger, and when the two officers could not get him to open the door and surrender himself or communicate, backup units were called in. Coleman still refused to surrender and mace was used. That, of course, failed.

Finally, Curry B. Good, a local resident, approached an officer and offered his help, and through his assistance and promise to post bond for Coleman, Coleman surrendered. He was handcuffed, taken to jail, followed by Mr. Good.

Once at the jail in the booking area, Coleman made his first move toward an escape, according to the report of the grand jury. In the process of effecting his escape, he allegedly struck

several of the officers with his fists, placed a strangle hold on Mr. Good, using him as a shield, and at one time had one of the officers' weapons.

He finally succeeded momentarily in getting away from the five officers and racing free from the lobby of the station. He was chased by Officers Volker and Mathis, and Officer Mathis is alleged to have fired one warning shot into the ground. Officer Volker fired four shots, one of which struck Coleman in the back below the right shoulder.

Coleman was subdued some 150 or more feet from the entrance to the lobby of the city jail, handcuffed, and his feet were cuffed. He was taken to the hospital where he died some one-and-three-quarter hours later.

There were many protests at the police station and city hall, meetings at auditoriums and churches, and the only thing I beg to differ with my city manager on is the number of people who attended the mass rally at the auditorium. There were far more than 300 people there.

I want also to say that on the morning when the council was to meet, I led a march of blacks and concerned citizens to city hall. There were many of us there, and I told them to take their places in any office all over the place, on the floor, and just keep them from doing any kind of business whatever on that particular day. I was approached by our mayor and he told me to get all of those people out of there, and I told him that the city hall belonged to the citizens, and they thought they just wanted to stop by for the morning.

This terrible fact created the necessary setting for some form of negotiating and further investigating. What we the members of the black community considered justifiable requests or demands were ignored and placed in the category of noncompliance. We sought federal assistance, and before long the Concerned Citizens of Port Arthur Association was formulated, of which I was elected chairman, and a team of community members was formed to negotiate with city officials: Robert F. Greenwald, from the U.S. Department of Justice, Community Relations Service, Southwest Regional Office, had us, the Concerned Port Arthur Citizens Association, labeled as the protest party, and the City, the respondents.

Many resource persons were used, among whom Gene Robertson, of Marquette University, was outstanding. We are of the opinion that without the availability of federal observation and our attempted municipal negotiations, we would have found ourselves at a dead end and all of our labors would have proven utterly futile.

Our city manager has already listed for you some of the modified things that came out of our negotiating sessions, and we feel that right now Port Arthur is in a better position for handling of any crises that might present themselves so far as peace in the community is concerned.

As far as the police and the community are concerned, we are staying close to the city manager because we have got a strong city manager type of government rather than a strong mayor. Recognizing that the city manager is over all of the employees of our city, we feel it is a good thing for us to keep in close contact with him so that whenever anything presents itself, small or great, we might go to him, attack that thing immediately, and see what we can do to handle the situation. We feel that because of the assistance from the Department of Justice, we were able to adequately handle our problem.

QUESTIONS AND ANSWERS

Question: My question is directed to the chief of police from San Jose. He stated that the reason minority people did not go to the police department to register their complaints was because there were police there. They wanted a building away from there. I am wondering why it is that the chief did not reveal to all of you here that the former chief recently confessed in a court of law that he had shredded all of the community complaints on police brutality in order to keep morale high in his police department.

McNamara: I am not sure what the question is, but I don't think it is appropriate for me to talk about my predecessor's action in the case. I had no part in destroying those records, and we, in fact, have a very firm rule against destroying those records now.

Question: Well, you made the statement that the people were not going to make their complaints about police brutality because they were afraid.

McNamara: I am sorry I didn't make myself clear. What I said was that a group of people from the community told me that. And in response to their concern, we did move the internal affairs unit.

Question: Then it is important also to note that the Office of Civil Rights has gone ahead and asked the Department of Justice to investigate the shredding of all of those police complaints in San Jose. I would like to ask you also, sir, why is it that youth in San Jose are filling the chambers of the city council in protest because of police brutality, harrassment, and also because of excessive citations?

McNamara: I think the Reverend answered that question. City hall belongs to the people, and I think everyone has a right to go and tell the council what their concerns and their feelings are.

Question: Yes, sir, but I am directing my question to you because all of those police citations. I am sure you are aware that if we have one community in a minority neighborhood with an excessive amount of arrests, that is creating an economic hardship in that community. Are you aware that that is taking place?

McNamara: I am not aware that there has been any discrimination at all in the issuance of citations. Every citizen, as you know, is judged by a judicial referee, and anyone can protest and have their case dismissed if they can show any kind of a bias or lack of proper enforcement on any citation.

Question: I work for the Houston Police Department, for Chief Caldwell, and we have created a Spanish Commission to take care of affairs in the Spanish community. Now we have a black person who also deals with policies such as the one that the gentleman has approached you about. I have found it very

successful and very challenging but there has been a lot of pressure. There have been some solutions and some recommendations during the time we have been there, and I think that if you create a position in your department for Hispanic and black liaison persons to work directly, and to recommend, and to see the whole department and be in the middle between the community and the police department, it will be helpful, for whatever it is worth.

Question: I would like to address my questions to the chief of police of Seattle in regard to recruitment. Is that a local civil service system that you have, or is it a state-level system?

Fitzsimons: The foundation is state law. It is a local civil service system, but it is based on state law.

Question: Do you have to get permission from the state in order to change your local recruitment?

Fitzsimons: I believe there are some restrictions. There is some enabling legislation from the state. I am not really familiar with it, but if you have a particular problem, I will be pleased to look it up for you.

Question: The problem naturally is recruitment. In our recruitment problems in the city of Fort Worth, basically we are talking about the Civil Service Act, and I think ours is 6941-M in the State of Texas. This happens to be our biggest stumbling block in trying to establish a good rapport and to get qualified minorities hired, whether Hispanic or black. I think the gentleman on the end indicated that a lot of times we are able to identify closer with the people we are dealing with if we understand what they are saying to us, if we are able to understand the local colloquialisms. In other words, we say things to each other that other people don't say to us, and it really helps if we can do this, but the Civil Service Act has constrained us from having a good positive approach, and I am just wondering if yours is the same.

Fitzsimons: I think the real achievement in the last eight months, as far as I am concerened, is the fact that I am now able to give examinations frequently. I don't have to take one list and live with it for two years, so that you limit the number of minorities on the list. And I can selectively certify people, and I do, but I have to keep feeding people into that list.

Now, if you opt for a media campaign for police recruits, the net effect is to glut the system with 10,000 white applicants that I don't really need. What I really have to do is give examinations, and I think one of the techniques I am going to try is to give examinations more frequently and use other ways of getting to the community where you really are looking for people to come in. One of the things we have done is to ask everyone in our department to become a recruiter, particularly minority people in the department, and get a commitment from every one of those people that they do know somebody. They can hand-hold somebody, and bring them into the system, and hang onto them for the two months it takes. Very often, they get discouraged in the process and fall out, and there are a lot of people with something on the ball that we cannot get because they find another job in the private sector.

You go to the community, you go to the police officers, you use your media, selected media, certain newspapers and radio stations. You go to the churches and groups and give examinations more frequently and keep filling the list. The same list; it doesn't die. You just keep adding your minority people to it, and you selectively certify. I think that might help. My problem is getting the message to that community that I need to respond, and that is my problem right now.

Moderator: There is one thing you should know. If there is a selection procedure having an impact on any particular minority group, it might be subject to the scrutiny of the Justice Department as a violation of Title VII.

Question: My question is directed to Mr. Fitzsimons. On October 11, the task force that Mayor Royer put together, the Hispanic task force, submitted to us their findings. Among those findings were concerns of the Hispanic community regarding police brutality. This is a three-part question, I guess. First of all, we haven't heard back from the police department.

Fitzsimons: My answer is that you should check back with the mayor.

Question: Our contact with the police department was less than cooperative. Secondly, we found that there is cooperation between the Seattle Police Department and INS. There was the case of Jesus Mesa, who in February of this year was arrested when he went in to pay a parking ticket. He went to one teller, who sent him to another and another and another. Ultimately he was arrested. He was booked. He was kept in jail. He only speaks Spanish.

He was never afforded an attorney or anybody. The next thing he knew, an immigration officer came in and said, "It is time to go." He said, "Hey, I am an American citizen." They said, "Oh, we will check again." he was given a 15-minute check and told he could leave. Your department is being sued. An attorney has been hired for that particular case. I want to know what you are doing to eliminate that kind of cooperation going on where Hispanics are being stopped by police officers.

Fitzsimons: I don't want to eliminate the cooperation. I want to keep it going. Your group is coming in speaking to the

the mayor, and I am responding, I have met with the Hispanic community. I haven't met you yet. I have Hispanic officers who are working.

Question: How many Hispanic officers do you have? There are none.

Fitzsimons: Do you know the recruiter?

Question: There is only one recruiter, and I understand there is a minority.

Fitzsimons: Is he Hispanic?

Question: You only have two officers.

Fitzsimons: Well, you don't know too much about the department. There is a sergeant and four officers, and the lead recruiter is a Hispanic.

Question: Some of those people have got Spanish surnames, but they are not Hispanics.

Fitzsimons: That is another problem.

Question: Any member of the panel can answer this. Recruiting is very important. The examinations that we have just alluded to are very important. What, if anything, do any of you do to prepare the candidates to pass the examination? And since 51 percent of the most intelligentt people of the world are women, what are you doing about attracting good women to serve in the police force? You don't have to teach them sensitivity because they are very sensitive. San Jose is closer to my city of San Francisco, and Mr. McNamara, you just came in three years ago, so you might just as well answer the question.

McNamara: I will have to say that the number of female officers has more than doubled what it was three years ago. It is still not adequate, but I don't think we can reverse a lot of years of discrimination overnight. We have a female sargeant in charge of our recruiting program now, and we have a number of other female officers who actively recruit when we have a pending test.

Question: I am interested in preparation for the examination since this seems to be the real crux of it all, the relevancy of the test to the performance that is required of the candidate.

McNamara: We have not found that has been a bar to female candidates.

Question: I am talking about in general, men and women.

McNamara: It is a general intelligence test.

Question: Then why don't they pass the test?

McNamara: They do pass the test. I think it is a question of what you can do in three years. We have gone from, I believe, something like 11 or 12 females up into the thirties. It is not enough, but it is progress.

Question: I came here prepared to accept and enjoy a certain amount of creative tension in our discussions, and I am not disappointed. I, however, thought that one comment was probably not meant the way it was said, and I ask the first speaker, Mr. Montoya, from Fort Lupton, Colorado, after hearing some of the presentations by some fine police representatives that we have here today, to consider whether his remark, which I assume was intended in good humor, perhaps went beyond the pale, that the bombing of a police station was an act of God and helped contribute to anything. I hope that he will consider and report to us that that was perhaps an overstatement.

Montoya: No, I am not going to consider it because the persons that were caught plea-bargained and were given six months probation. So I still say it was an act of God, and not the two Chicanos who were caught.

Question: I would like to pick on Seattle again. The chief of police, I believe, vaguely told us a story about a jail escape by members of a terrorist group. It is commendable the restraint you said the officers had. I am wondering if there would have been that same restraint if there had been eight black people escaping from jail unarmed? Have you gotten to the point in Seattle where you have that same restraint?

Page: I would like to suggest that the restraint came as a result of September & Associates working with the police department. This happened after I left, but I know the guys they are talking about had some very strong and bad reputations in the Northwest. So I think if the police had thought they could have gotten away with it some of the police officers would have blanked them out.

Question: This is my point. Did the guns which the escapees were carrying have anything to do with the restraint?

Page: I would suggest that the restraint resulted from the training that some of the officers got from September & Associates.

Fitzsimons: If I can be more specific, there were three people wounded. One was a police officer who was shot three times, and there were numerous shots fired back and forth, but police officers, when they had citizens in the line of fire, did not fire. I think they did an excellent job, and I think that the way to go is, when they do the thing right, you tell them they did it right. Five of the people that got out were convicted killers. I don't think police officers lack the physical courage, if that is the response, I will tell you that.

Question: I would like to address my question to the police chief sitting there, and to the city manager from Port Arthur, Texas, I believe it is, and to the Mayor from Fort Lupton. What assessment, if any, is made by the police department, the managing director's office, or any of the agencies in recruiting and hiring, that takes into account the prior arrest records and juvenile records of minority applicants? Do you take into account the prior arrest records or juvenile records of minority applicants when you are recruiting or testing or considering people for employment as police or law enforcement officers?

Moderator: There are two questions, the past adult record and the past juvenile record.

Martinez: I am not that informed on police hiring. We don't do it ourselves. We have got a forum that does it. I know that juvenile records do not go in.

Fitzsimons: There is an assessment made of whatever records are available to the police department. In the New York situation, for example, there is even a board to review those minority applicants whose records would normally keep them out. So every effort is made to get them in, but there is a formal assessment process of the background information.

Question: Then what would be your least criteria for availability of the position? In other words, if a person—a juvenile within the Northeast Corridor, generally speaking—between the

ages of 10 and 19 will get arrested a minimum of three to five times for disorderly conduct just for standing on the corner, for failing to disperse, for aggravated assault and battery on an officer with words?

Fitzsimons: The bar would be whatever the legal bar is for a convicted felon, but juvenile records certainly wouldn't be a bar.

Question: Well, they are certainly a bar in northeast cities.

Dibrell: Well, they are for a felony in Port Arthur. They are considered case by case by case, and a misdemeanor is separate.

LUNCHEON ADDRESS

Ruben Bonilla
President, League of United
Latin American Citizens

Daniel Webster once stated that "Justice is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together." In the United States of America the ligament of justice has been torn, incapacitating entire communities and causing havoc in others. We are here today to ensure that the rights a person derives by virture of American citizenship are adequately enforced, for we all know that unenforced rights are no rights at all. Each of us gathered should beam with pride, with the satisfaction and knowledge that this national consultation on safety and force is the first national conference on the issue of improving police-community relations. Second, this is the first conference in history to be cosponsored by the Community Relations Service, the League of United Latin American Citizens, and the National Urban League, in cooperation with prominent law enforcement officials from across America.

Our presence is proof of our continuing and abiding faith in democratic and judicial systems, ensuring protection for persons whose civil and legal rights have been abridged. Regretfully, the vast majority of Hispanics in attendance would undoubtedly declare that society has not always met its compelling consitutional duty of protecting the legal rights and privileges of the Spanish-speaking community within the continental United States. The treatment which Spanish-speaking people have generally received either in the judicial system or while in the custody of law enforcement personnel has been historically dependent upon two factors, pigmentation and English-speaking proficiency. Abuse, mistreatment, and discrimination directed towards the Spanish-speaking American and the corresponding institutionalization of stereotyping has created in America a subculture that makes all Hispanics the stepchildren of American society. The deterioration of Hispanic-police community relations was not a startling development of the decade just past. The full-scale assault on the dignity of the Spanish-Americans began centuries ago when our ancestors, who discovered and explored our American terrain long before Plymouth Rock, had their property rights literally stolen from them by fraud and deception. It is a great irony of American history that aside from the American Indians, the Hispanic American is the only group to have been conquested by annexation.

The violence perpetuated by public officials reached epidemic proportions with the traumatic events of the 1970s. For, since 1970, the U.S. Department of Justice has received approximately 10,000 complaints of alleged police abuse, and has conducted some degree of investigation into approximately 4,600 incidents. The dissatisfaction in the Hispanic community arises from the fact that prosecution has resulted in less than 50 of these violent incidents. Violence—that appears to be the thread which runs across our national Hispanic social fabric.

A common denominator of the violence and the death which led to the need for this historic conference has been the lack of professionalism and misapplication of the rule of law by those entrusted to enforce and uphold the sanctity of our criminal justice system. However, the national Hispanic leadership must also stand indicted today for its inertia and its snail's pace in addressing and attempting to resolve this most volatile and divisive issue in our country.

We in the Hispanic community, as much as law enforcement officials, have nurtured and encouraged the use of intemperate and emotional language that has further undermined stability in our neighborhood. Too often we have marched and shouted but have not voted. We have downed and chastised each other without attempting to reconcile the differences that divide us or to exercise the right to vote that would enable us to rid our cities of those elected officials who unabashedly decline to improve police-community relations.

And, finally, too often we have pitted Hispanic against police instead of coming together as one unit in the same hall as we have today to declare to America that we are divided no more and that peaceful, productive, and cooperative relationships are our realistic goals and objectives. The Hispanic perceives that

many of the historical obstacles which have hampered law enforcement reform remain in practice in contemporary America. A brief overview of police-Hispanic relations or police-community relations in our country reveals that we may indeed be correct in our assessment. In Texas, for example, in one 12-month period ending in September, 1978, over a dozen persons of Mexican extraction were killed while in legal custody. Among those dead was the infamous Joe Campos Torres beating and drowning, which had a volcanic effect on police-community relations in the Southwest.

In Philadelphia, as well as in Los Angeles, California, the civil rights division of the Department of Justice has conducted ongoing investigations of charges that police departments have engaged in brutal and malicious conduct in its treatment of minorities. The most notorious of the California cases may be the Eulia Love case. A 39-year-old black housewife who was killed in January by 12 bullets when she allegedly pulled or threw a knife in the direction of two officers after an argument over a gas bill.

In Wichita, Kansas, the advisory committee of the United States Civil Rights Commission outlined problems in Wichita police-community relations. The report concluded that there was a liberal use of deadly force by Wichita police and that minority members perceived partial law enforcement against blacks, Hispanics, and women.

In Milwaukee, Wisconsin, 30 civil rights groups and community organizations recently concluded a day long community conference on police issues in which community leaders charged that the Milwaukee police chief rewarded officers who were violent against blacks by giving them a promotion.

In New York deteriorating police relations in the Hispanic community led to the establishment of Spanish-language classes for police officers.

And finally a U.S. Civil Rights Commission report recently concluded that police misconduct is so difficult to root out that the FBI should create a special investigative unit to expose improprieties and misconduct of local law enforcement officials.

One asks then, "Where do we go from here?" I believe that we as Hispanics are here to prove to the nation that we wish to work with the law enforcement community to alleviate the disorder, to eliminate senseless and unnecessary taking of lives and to promote cooperation based on trust. Let us try to implement the teachings of Henry David Thoreau, who stated that it is never too late to give up your prejudices. Together we can demand and ultimately witness a reform and awakening of our criminal justice system.

I personally view minority-police relations on three levels. First, there is the necessity of destroying the stereotypes of minorities as lazy, unambitious, unlawful, and inferior human beings. Hispanics are indeed law-abiding.

On the other hand, we of the minority community must understand and promote the concept that the overwhelming number of law enforcement officials are good and decent people, desiring to enforce the law fairly and impartially. And they will almost uniformly condemn lawlessness or corruption within their own ranks. Minorities and police officers are all human, capable of experiencing errors of fact or misjudgment. It is our task to minimize the acts of omission as well as the deliberate and intentional acts of commission which disrupt our nation. Clearly it appears the duty of a law enforcement official is to protect society, not to persecute its citizens; to investigate, but not to intimidate; to arrest, but not to assault; to assist in the adjudication of suspects, but not to join in the assassination of our citizens.

We are determined to create an atmosphere conducive to listening together and learning from each other. As a task force, which we are for the next few days, we will delve into serious problem-solving in an effort to resolve the social and moral crisis in which we find ourselves enmeshed. Subject matter as complex as municipal liability and as emotional as the issue and use of excessive force will be discussed fully. The subject matter before us demands strong community support and influence in order to strengthen the role of law and order while heightening the respectability of those the law is meant to protect.

Above all, we must bear in mind that the resolution of this issue will neither be as sensational nor as newsworthy in our nation's newsrooms as the unfortunate events which precipitated the events that have brought us together. Please keep in mind that Hispanics wish to be the allies of law enforcement, not the victim. We are urging law enforcement agencies to police their departments before attempting to police society.

LULAC is determined to overcome what Gil Pompa has classified as the emotional block, the emotional aspects of tragedies which have struck and hamper reasonable and rational thought. We agree with Mr. Pompa and CRS that superior results are gained if the focus is placed on the police policy system rather than on the individual patrolman charged with misconduct. All law enforcement officials in this nation are confronted at one time or another in their career with the determination of what restrictions or controls are to be imposed on the degree of force used by their officers. LULAC submits that with the exception of self-defense, deadly force cannot be used when the suspected criminal misconduct is a mere misdemeanor. Even in those instances in which deadly force is not used, the officers' drawing and subsequent use of a weapon can often lead to confrontation and beatings in the carrying out of an arrest.

The proper use of weapons leads naturally to a discussion of the second level of police-community relations, enhanced professionalism, the level of desired professionalism. The level of desired professionalism can best be achieved by an emphasis on stricter accountability, the establishment of a realistic weapons policy, combined with vigorous recruitment, hiring and promotional policies directed towards minorities will also restore a semblance of credibility to otherwise beleaguered departments. In March of this year and again in November in Texas, Hispanic community leaders met in unprecedented fashion with law enforcement executives to discuss professionalism in law enforcement. Among the subjects discussed were use of excessive force, its use and abuse, selection and training, complaint processing and internal investigation and the role of community organizations and the news media.

Many of the workshop recommendations are within easy reach of implementation. I would like to share a few of these proposed reforms with you. Ethnic training course work, which promotes more positive images and understanding of minority communities, should become mandatory training for law enforcement at all levels.

Similarly, counseling and psychological testing should be widely used as a means of excluding police applicants with a preconceived notion of bias against a particular class or group of persons.

In-service training for career officers and by crisis-orientation for cadets are also innovative programs which strengthen the officer's capabilities in coping with the daily stress of his hazardous profession.

Finally, state law enforcement authorities, in cooperation with community interest organizations, should establish clear guidelines concerning police use of force. Such policy formulations must also be accompanied by procedural guidelines that will help assure that the directive will be in written form and effectively communicated to every line officer.

In those instances where willful violations occur, an immediate penalty should be imposed, along with referral to the grand jury, state or federal, in those cases where appropriate. Law enforcement executives should consider a policy of referral to the state grand jury of all criminal complaints filed against police officers, with the further understanding that such complaints would be made a part of the officer's permanent file for future evaluation purposes.

In complaint processing and internal investigation, our state and governmental bodies should follow the lead of Attorney General Civiletti and establish civil rights units in their respective offices. There should also be established efficient internal affairs divisions in law enforcement agencies with written and publicized procedures. The complaint process should be simplified so that no citizen is precluded from seeking redress of his alleged grievances. The authority for internal investigation must come from the chief's office, and he must utilize the utmost care in the selection of personnel. Community-based organizations such as the National Urban League and LULAC should encourage the structuring of more communication groups with law enforcement. We strongly recommend the scheduling of local or metro conferences at which organized and unorganized Hispanic community groups are invited to participate.

In short, the minority community must be observed in more cooperative ventures with law enforcement such as offering testimony before county and city commissions in support of increased salary and fringe benefits for law enforcement agencies.

We all agree, I believe, that in order for a community group to relate effectively to police-community problem-solving there is but one prerequisite. It must recognize the legitimacy of the government that created the law enforcement agency. Otherwise the very process of mutual cooperation will never become reality.

I believe the last and the third level of police-community relations is responsiveness and sensitivity of federal and state governmental agencies, including the judiciary. Recently the U.S. Department of Justice established a high-level task force to review the use of deadly force by police officers. The Justice Department is committted to promulgating national standards which police departments can draw upon to draft individual policy and training programs on appropriate use of force.

In a similar vein during confirmation hearings before the U.S. Senate Judiciary Committee, Attorney General Civiletti agreed to establish additional civil rights units within the offices of U.S. attorneys across America and to increase the hiring of Hispanics within the managerial level of the Department of Justice.

Attorney General Civiletti also agreed to consider the withholding of LEAA funds in those jurisdictions exhibiting a systematic pattern or practice of abuse or discrimination against a particular class of persons. The Department of Justice Civil Rights Division has also notified the FBI, as mentioned by Mr. Days this morning, that simultaneous investigation of alleged criminal rights violation will be properly conducted in the absence of extraordinary circumstances early on.

In this present administration former Attorney General Griffin Bell announced the establishment of the dual prosecution policy permitting federal prosecution of any individual for alleged violation of federal statutes pertaining to civil rights. Attorney General Bell specified that the statutes were designed to protect interests which merit enforcement in their own right regardless of any related enforcement activity at the state level, meaning that if the policemen who killed Joe Campos Torres were prosecuted in state court and received a mere probated sentence, the federal Department of Justice could nonetheless bring action in federal district court to seek enforcement of the existing federal statutes against those same officers.

Ironically, though, the Hispanic community has been continually frustrated by the failure of the Department of Justice to provide vigorous enforcement of the stated policy. And I mentioned to you in the beginning of the speech that less than 30 of these cases have been effectively prosecuted.

In Texas, speaking of state laws, the state legislature recently enacted one of the nation's strongest civil rights laws. The state attorney general now has concurrent jurisdiction with local law enforcement agencies to investigate alleged civil rights violations. In addition, it is now a first degree felony for a police officer or prison guard to cause any person's death while abridging that person's civil rights. That offense carries a penalty ranging from five years to life imprisonment. The law took effect on September 1, 1979, and represents a first step towards the reestablishment of civil rights for the people of Texas.

LULAC submits that the stated amendment of the Texas penal code should be traced by all jurisdictions represented in this country. However, the Hispanic community must remain ever vigilant that local district attorneys, seeking political office and mayors seeking political office, make public commitments and incorporate into their platforms a promise to enforce the applicable law through vigorous prosecution.

Everyone must understand that the problem has never been one of inadequate or insufficient statutory authority to prosecute. The historical problem has been one of discompassion, public officials refusing to apply the law equally or failing to apply it at all in cases of violations of minorities' civil rights.

While we find certain policy reforms in the Department of Justice and the State of Texas to be highly commendable, it is clear that we must begin closer collaboration at the local and state level to ensure more efficient law enforcement. Should local authorities decline to accept this challenge so as to control the destiny of their departments, the minority community will be left with no recourse but to demand prompt and expeditious enforcement of the appropriate federal statutes in any instances of civil rights violations.

Untouched in my discussion has been the trend of increased violence towards undocumented Mexican national workers presently residing in our country. It is LULAC's position that every inhabitant of the United States of America is entitled to just and humane treatment. Our Constitution states clearly that equal protection of the law shall be guaranteed to each and every resident of our country. The thoughts and arguments advanced previously are applicable in detail to the undocumented worker, and we want our counry to know that we in the Hispanic community will not tolerate or condone unlawful, unconstitutional, and illegal raids of the Immigration and Naturalization Service either in our Hispanic neighborhoods or in commercial establishments dominated by an Hispanic work force.

I am confident and optimistic that this symposium will be a high point in the development of police-community relations in America. If we leave never to join again except in time of personal tragedy, we will have failed dismally. Our reputations and that of our respective constituencies are at stake. The sooner we restore tranquility and uphold respect for law and order, the sooner we Americans can address the equally critical issues adversely affecting our minority citizens, that of devastating educational and economic disparity and political under-representation.

In closing, it would do us well to remember and practice the words of Abraham Lincoln who stated that those who deny freedom to others deserve it not for themselves and under a just God cannot long retain it.

SIMULTANEOUS SMALL-GROUP DISCUSSIONS OF IDENTICAL PROBLEMS

FACILITATORS:

GROUP A

Werner Petterson
Conciliator, Midwest Region
Community Relations Service

GROUP B

Frank Tyler
Conciliator, Mid-Atlantic Region
Community Relations Service

GROUP C

Howard P. Carrington
National Administration of Justice Specialist
Community Relations Service

GROUP D

Angel Alderete
Conciliator, Western Region
Community Relations Service

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Group A

Facilitator: The first question in your packet is to "List the ways that you think or do not think that a racial double standard is reflected in police arrest rates."*

Tony Fisher: Many of the problems I have observed in working in law enforcement are that juveniles who are arrested for minor offenses more often are minorities who have no access to attorneys. Many times the parents are working and can't be reached. An officer arriving on the scene of a reported vandalism call may take a white kid home without filling out the necessary papers. Oftentimes, they just fill out a suspicious situation field report, which does not indicate an arrest. Minority kids are not usually afforded that opportunity.

So, as a police officer, I see the double standard being reflected more in the juvenile arrest rates as opposed to the adult arrest rates.

I think that because of certain racial attitudes of officers that we can observe an impact on the number of juveniles that are being arrested as opposed to counseled and taken home to their parents.

Peter Scharf: I think it is one of the major problem areas, both in arrest and also the use of deadly force. One thing which has bothered me in the arrest part is the study of Rees and Donald Black, I think 1968, in which they looked at the relationship between race and arrest, and they found demeanor a much larger factor than race and arrest.

What they did find was an interaction in fact between demeanor and race in the sense that minority group members were more likely to get into an antagonistic relationship.

What they found of interest was that there were almost identical arrest patterns of what they called cooperative minority members and cooperative Anglo members. They found identical relationships between non-cooperative whites and non-cooperative minority members. A higher percentage of minority members were antagonistic, and what they concluded, which is interesting, is that it is the minority citizen, not necessarily a tendency to arrest blacks or brown community members in larger numbers.

The other bigger problem, I think is in the area of police deadly force. There was a study by Harding and Fahey done in Chicago in 1970 where they found a felony arrest rate of 71 percent, and police homicide rate of black members of 72 percent.

So there was a very close relationship between the numbers of felony arrests and the amount of deadly force in terms of different racial groups. It seems to me that people have either concluded that the lack of evidence means there is no "double standard" or overt racism. But people have also, I think prematurely, said that the fact of the higher numbers of minority arrests or minority victims of police homicide shows a racist intent or genocidal intent on the part of the police community.

I think, neither conclusion is, at this point, warranted.

Glen King: I think the problem of a double standard becomes a problem to police agencies in two almost opposite kinds of ways. First, there are occasionally charges that the police effect a greater number of arrests because of the racial or ethnic background of the suspect, that arrests are made when they would not have been if the suspect were a member of the majority group.

There are almost as frequently complaints made that police fail to adequately and properly enforce the law because of the racial or ethnic background of the people involved, that some citizens in some areas, because of their backgrounds, are ignored, and that crime is permitted to occur in those areas to a degree that it would not be permitted to occur in basically majority areas.

From the perspective of the police department each of these is, I think, equally to be avoided.

Voice: It has been my experience with Anglo officers, that Anglo officers coming from middle-class families into a minority area overreact to a great extent because they are not as sensitive to the issues of that area. I believe that if there was training dealing with the kind of areas the officers are to go into that they may, in more instances than not, be better able to cope with the high-risk situations.

Carlos Moian: It is very foolish to entirely blame the people for double racial standards. I feel that the court system has a lot to do with it. You can arrest as many minorities as you can, but who has the final disposition of that arrest? I think it is the court system.

If you want to really emphasize the issue of double standards, you can look at the prison population. You will find that more blacks or Mexican-Americans or Hispanics are sent to prison than whites.

Now the question is who put them there? It is certainly not the policeman, but the court. You have to take a look at other issues such as who has money to afford a good lawyer. Certainly not the blacks in the ghetto, or the Mexican living in the barrios,

* The small-group sessions sought to clarify the safety and force issue through frank discussion of the following questions, designed by CRS, International Association of Chiefs of Police, and Public Law Center of Philadelphia: (1) List ways you think (or do not think) that a racial double standard is reflected in police arrest rates, (2) Is the issue of police use of excessive force fact or fiction? Explain, (3) What steps can police departments and community groups take to reduce the real or imagined problem of police use of excessive force? List in priority order, (4) What types of training should be designed to lessen the effects of the improper use of police use of excessive force?, (5) In what ways, if any, should state laws governing police use of firearms be redefined to limit or expand the parameters governing the use of force?, (6) Allegation of police use of excessive force are higher in some cities than in others. In what ways do firearms policies affect the use of weapons by the police in performing their duties?, (7) In what ways, if any, does the police chief's attitude affect police discretion in the use of firearms?, and (8) In what ways do minority and majority groups differ in their response to the use of force by the police?

So I think it is a problem for which we all have to come up with a solution, not just the policeman.

When I worked in North Carolina as an MP, I noticed that there was some philosophy among all the police officers. Some of them felt that if you arrest a Puerto Rican, don't even bother to ask him a question, just throw him in the back seat. If you see a Mexican, do the same way. If you see two blacks, cool it because you don't want the whole black population on your back. And that is the philosophy, not 20 years ago, but back in 1974.

Voice: My collegue talked about the middle class being the police, and I suggest to you that while that may be partially true, what we are talking about here is about race and class. In Bangor, Maine, it is the French-Canadians, and two or three generations ago in Boston it was the Irish, in the southern United States it is the Chicanos, in South Bronx it is the Puerto Ricans, and in a good part of the United States for a long time it was the blacks.

Beyond race you have the unwillingness of the have-nots as they gain an economic hold. I predict that in two or three generations, it will be the Vietnamese and southern Asiatics who will be here complaining, and not the Mexicans or the blacks.

The unique thing about this conference is there has been very little black protest here of police brutality, basically because machinery is in place for the confrontation locally for that. The Spanish-Americans are beginning to establish that. In a generation, they will not be here complaining either.

Victoria Diaz: I agree that the focus of the question is really not broad enough. Instead of looking at arrest rates we should also be looking at the rate of stops. I've been working in the last two years in Santa Clara and San Jose, and have been in contact with many Hispanics who claim to have been harassed by police officers who stopped and detained them for one or two hours, or took them for a ride short of arrest. I don't think statistics exist but we need to start keeping them, because the perception in the Hispanic community is that there is discrimination in the way police handle some of these stops.

Rudy Hernandex: In reference to arrest rates, I agree that juvenile delinquency arrest rates are higher among minorities. Your status offenders are mostly middle and upper-middle class kids. You hardly see minorities within that bracket. Another thing is that there has been a major attempt by law enforcement agencies to recruit minorities. The racial quota of Hispanic police officers in the United States is nearly nil. Hispanics among middle and management is nearly nil. We represent one of the biggest populations in terms of arrest rates, incarceration, and imprisonment, but only about one-and-one-half percent of the police.

One of the things that puzzles me is that in East L.A., a predominantly Chicano area, you hardly have any police officers that can communicate with the community. And when you talk about constitutional rights, of telling a person that he has a right to an attorney and everything, if you don't have the proper people to assure their constitutional rights, that compounds things.

So I think this question is applicable to police officers that are bad. But it doesn't apply to officers who are doing their job.

Bill Merritt: I don't want anyone to go out of here with the idea that blacks no longer are discriminated against. In the area where I live the system is not so intact there is not double standards, which are seriously being addressed. And while I do agree that class has a great deal to do with it, unfortunately minorities, especially people who can be identified on the basis of their skin or their speech and discriminated against, are lumped into one big group. Whether you are middle class or poor, black, or Hispanic, very often the arrest is made before it is established whether you are middle class or whatever.

At the same time, in reference to the question, we also have a problem in terms of a double standard in promotions and the number of minorities that are in police departments, especially in reference to officers.

The second area that I think we should look at is excessive use of police force in surveillance, where records are kept on activists, organizations, individuals or people who "would be construed as activists." These records are maintained, and are used negatively against these organizations and individuals so that when these individuals are victimized they become victimized again. Where information is shared throughout the nation regarding innocent individuals, private citizens, as people move, I think that is unnecessary and excessive use of force. And I think it is blatantly wrong.

The third area is cooperation between the police departments and the INS. Again, I do not believe that the police departments should be agents of the INS. But there is evidence to show that in areas where you have high migrant flows that the INS is working hand-in-hand with the local police departments. I think this is excessive. I think that it is unnecessary, and I think it is something that should be addressed, and must be addressed.

Voice: Excessive use of force does exist in police departments throughout the country. There is a great amount of camaraderie within law enforcement, and blacks or other minorities are eliminated from being a part of internal affairs investigations, and grand jury investigations. That process, being conducted by one particular segment of the population, frustrates the minority community in terms of the kinds of justice that they get. Thus, the process further divides the community and the police, and engenders an additional danger to their job.

Any time that we can eliminate certain people from the process and they begin to be frustrated, when we go into the streets, that frustration oftentimes is acted out against us. So I think what the police departments can do is to begin to evaluate the processes which they are presently using, and make sure that there is a proper amount of minority participation. I think it would go a long way in reducing the existing frustration, separation, and division that exist between the community and police over the issue of police brutality and excessive use of force.

Voice: Groups, such as the ones that are represented here, must begin to question the existing process, to take part in the state legislative process in terms of bills relative to police conduct.

The political process is the most direct route. Consistent pressure upon the police chiefs is also a direct route. But community groups have to be extremely active. Police departments

will respond to consistent pressure, but to come here and not go back to your community and formulate some strategies, and they must be political as well in terms of addressing your police chiefs, I think the whole week will be somewhat lost. The proper representation of minorities has to exist, and in many cases it doesn't exist, especially here in this particular county in which you are having this meeting.

Bill Elkins: If one randomly selected 100 cases involving police shootings, arrests, and confrontations involving ethnic groups, one would find that excessive or deadly force was used. I suggest what has been done in Los Angeles following the Eulia Love case that has attracted much notoriety. There have been many abortive efforts over the years to raise the level of trust, as someone has indicated, between indigenous communities and law enforcement agencies.

I think we have to first accept the fact that that is difficult to do for many reasons, sociological and otherwise, but it can be done. I would go further to say that unless ways are found through the creation of task forces involving ecumenical groups, elected public officials, and, most importantly, indigenous community leaders, to establish levels of trust, that we don't even begin to deal with the issue.

It was standard operating procedure in the Los Angeles area to have the police department unilaterally review all police shootings. Our confrontations had created tragedies, and the process really was more or less a rubber stamp procedure because never were police officers found to be outside of the bounds that we had. Even before the Eulia Love incident, there were very rigid policy guidelines involving police shootings, but police officers were seldom found to be beyond the constraints of the policy. For the first time, the police commission did its own investigation, a very definitive investigation, and reversed the findings of the department itself. That, incidentally, was done with the assistance and involvement of a community support group which included elected public officials and indigenous community leaders.

So I conclude by saying that this is a difficult issue because we are dealing with entrenched racism, with entrenched bias of both the community and law enforcement. But it must and can be done by establishing credible task forces to put the issue on the table, and to honestly move to raise the level of trust between the two sides.

Bob Alexander: I would like to offer a perspective that begins with a healing of the wounds and a coming together. In New Orleans, Louisiana, they have taken a series of issues and compartmentalized them by age and class groups for their analysis and their perspective of the problem, which will then be evaluated by a cross-section of that community.

That's a long-term thing. Coffee with a cop is a short-term effort. The excessive use of force issue, from my perspective, is a multi-faceted problem that none of us in the community, regardless of race or class or position, police or community, want to continue. We want to see it eliminated or substantially reduced. And so, I suggest that we come at it from the perspective of healing and reconciling, and of taking a systematic approach to it. Maybe if we start there, the solution will begin to unfold.

Charles Jordan: A more relevant question would be, not does excessive force exist, but how much. And I think if you took 500 complaints and just followed through on those you would probably find that 70 to 80 percent are perception problems, not real problems. The complainant has first crack at the community. We are wrong for stopping someone, regardless of what they have done. Then when they go back into the community they say what a police officer has done.

You're not going to believe the police officer when it comes out in the newspaper. Maybe they're wrong, maybe they're right. But the person who is arrested can say anything he or she wants to, unfounded or not. Law enforcement officials have to be responsible for what they say, because they have to back it up in a court of law. We cannot debate when a citizen is lying because there is an imbalanced perspective. You do not always get the full story from the complainant nor from the police officer, so where do you go from there? You have to be Solomon, and we can't always be that.

Mary Powers: I just want to respond to the last gentleman's comment about lying. In my organization, I work with people who come to us with problems—the police don't come to us—so, of course, we hear their story first. However, last Saturday, I had the opportunity to sit in a meeting with about seven young gang men, and this was set up by gang leaders who are now so-called "reformed". We were trying to get their perceptions of excessive force, of the people, and of what they would like to see if they were policemen.

The lack of antagonism amazed me. They told us things, incidents that had happened to them. We were all white. They wanted to know how we would feel if this had happened to us.

For instance, one young Puerto Rican was going down the street with his pregnant girlfriend, very obviously pregnant, and a police car pulled up and the officer says, "How are things going?" The youth wanted to ignore the policeman since he was getting nervous and felt he was being harassed. Then the policeman said, "You know, Officer So-and-So has a bullet with your name on it," and this kid says, "You know, that was humiliating in front of my lady." That is the way he put it, it was humiliating. He said the officer had no cause to do that. The lad said, "If I wasn't intelligent I would say 'Well, I have a bullet with his name on it'." He really thought the officer was trying to provoke him into an incident where there would be cause for arrest or some further action.

They related a whole series of incidents like that, and what they were talking about is the very same thing we're talking about here today. That is, how to achieve a level of trust. You know, I'm hopeful that when we go back we will be able to get them together with their local commander and talk about some of these things. But despite the experiences, they still were really open to working with the police.

Robert Harris: I was very intrigued with the comments a minute ago about police officers not being able to respond when accusations are made against them. In San Francisco, I'm defending a $50,000,000 lawsuit against the NAACP for complaining against police brutality, and in the same vicinity across the bay, Oakland, I'm defending a 4.5 million-dollar suit

against the NAACP for again complaining about the killing of a 15-year old black boy who was shot in the back, and also the subsequent invasion of NAACP Headquarters by three officers, one of whom was involved in the killing of the 14-year-old black boy.

Now, what concerns me about that is that the police officers in those situations, I feel, are really misusing the court process in order to intimidate those who complain about police brutality. The theory is a very simple theory, that is, in the area of libel and slander, if you acouse a person of a crime that is slander or libel per se. To accuse a person of police brutality, of course, you are accusing him of wrongdoing and, in all instances, if he committed acts of brutality he has, in fact, committed a crime. I think that has been the real problem that we faced in the San Francisco Bay area in terms of trying to get some redress for what we consider to be police misconduct.

If you speak against them, you will have to defend in a court of law, and if you're a civil rights organization you do not have a lot of money. These suits will undoubtedly eventually be dismissed out of court, but think of the cost that the NAACP and other organizations have to incur in defending. Fortunately, in this case we are doing it for them free, volunteering our time. But I think police officers ought to be very aware of this around the country. It is something new, and they ought not to do it. It heightens community discord rather than resolve the real problem.

Langdon Dames: About three years I worked in the Bedford-Stuyvesant area in Brooklyn, and I could personally attest to harassment that we and also some of the students in an employment training program received. It got to the point that we had to have an attorney on retainer just to defend some of our students who were arrested for things like being accused of going through a red light, but by the time the youngster got to the police station he would have four, five or six different charges.

There was another occasion, very similar to the case of the young man walking with a pregnant girlfriend, that involved a question of manhood. What we found particularly frustrating was that we were trying to get them prepared for jobs and we knew that those minor charges would knock them out of the employment market.

But I think perhaps the most dramatic case we had was where one of our counselors was out on lunch hour. He came back about three hours late, then he came up to my office to explain the fact that he had been detained at the police station. Upon hearing this I went down there to try to determine why he was detained. No one would give me any information. They claimed that the person who had brought him down was no longer on duty. He had not been arrested. In pursuing this a day or so later I went back to the police station. I still was not able to confront the person who had brought him in. When I left the station, I was followed by a policeman until I got back to the office. For over a two or three-week period the officers would periodically come into the center and walk around. When I was notified I would come down to find out what they wanted and they would just indicate that they were not there for any particular purpose.

And the irony of this was that, on an adjacent precinct, I was on a community relations board that was supposed to be formulating better relationships within the community. I'm sure there are many, many people who can relate a litany of this kind of harassment that in many cases could change a person's life and their destiny.

Voice: I think we all know that that happens with a small percentage of officers. Let's say you have a situation where you're trying to get a drunk out of a car or arrest a teen-ager who is struggling, and it is very difficult. It is not only the facts, but it is also the concept of what really is excessive force.

The law says you are allowed to use reasonable force to effect an arrest. The problem is when you take that definition of "reasonable force," it is given the facts known at the time. And it is also probabilities about what is necessary to actually effect the arrest, which assumes a judgment on the part of an officer in a very emotionally-charged situation.

There are two kinds of errors in the deadly and non-lethal force area. One is, do you use excessive force and hurt somebody who need not be hurt, or possibly kill somebody who need not be killed? The other is that to use less than necessary force could escalate into the death of the officer.

I think one of the problems in answering the question of whether there is excessive force is in the second type of situation. We really haven't conceptually worked through what excessive really means. There is obviously a band of error. In other words, we don't know perfectly what is needed to subdue a felon or a drunk or whatever. It is not a perfect situation in which you know in advance how much to use. We haven't dealt with the question of what the range of error is.

Voice: The problem as I see it is when a community relations officer goes into a community to address the citizens he dosen't address the issues. If I went to a Kiwanis dinner and addressed the people there, I would address them and they would ask more intelligent questions about the kind of policies that the police department has. When I go and talk to a minority organization or a minority group, those same type of questions are not brought up. They are not aware of what the policy is, so how could they deal with the problem other than fight back when they feel they are unjustly treated?

Carlos Moian: I have a couple of possible solutions to excessive force. One is, that the group discussions along cannot do it. We need government agencies and federal support. That also includes state legislation to make it a crime or a felony for officers involved in shootings when unjustified.

The other one is, to create a federal agency similar to the FBI. The FBI cannot do it. The FBI doesn't want to do it. First of all, there are two reasons. They have to maintain community relations with the police department. If they are trying to nail one of the police officers, they might get some negative reaction for future contacts, or whatever. They are unwilling to get involved in issues like that.

And if you get a separate government agency to conduct investigations or to make inquiries, they would mainly be more classified as a human rights, or whatever you want to call it,

but they would not reflect on the duties of the FBI. They cannot do it alone. I think that is why we're here, to let you know what we think, would be the best.

And finally, I just wanted to mention that the police departments are more visible but you also need to keep in mind that the United States Immigration Service is involved in this type—you could call it crime if you want to, because first of all, the illegal alien cannot sue the government if he is going to be deported.

My brother is a U.S. citizen and he was deported to Mexico because they thought he was an illegal alien. My parents didn't think that they could win, and they said it would be useless to try to fight the government. I'm just letting you know that these incidents take place.

James Davis: There is no conflict between the police departments and the minority communities. I'm speaking of the black communities, because I have no knowledge or experience with the Hispanic community. The conflict is between the police and the criminal, whether he is black or white. Certainly there is a greater probability of a person getting hurt, especially hurt with deadly force, with firearms for instance, if he is black simply because blacks predominate in certain types of crime.

Don't misunderstand me, I'm not saying that all blacks commit crime. We all know they don't. A very, very small percentage of people of either race commit serious crimes. But in robbery, for instance, I analyzed our robbery rate; 83.2 percent of the robberies are committed by blacks in my city, so it stands to reason that there is a four-to-one chance that there is going to be a serious confrontation between the police officer and black citizen because of this.

There are many other things that I would like to mention, but we're running out of time, I believe. The gentleman from Portland I think hit the nail on the head: What is the best defense if you're caught committing a crime such as burglary, robbery, auto theft, what is your best defense when you're caught redhanded? Simply to say that the police beat you up and extorted a confession from you, and that you're not guilty.

Group B

Facilitator Frank Tyler: Let's first find out whether you think or do not think that a racial dual standard is reflected in police arrest rates.

Larry Borom: Studies that have indicated that if you are a black—and I guess we could probably extend that to brown minority males—that your chances of being arrested before you are 21 are much higher than for any other group. That is based on rates of arrest. I think what that indicates is the prevailing attitude among police forces, that young minority males are suspicious, and that is the beginning of the confrontation that takes place between them.

Lorraine Cunningham: In Memphis, I serve as chairperson of the Police and Community Together, a citizen-police advisory committee.

It came to our attention that police have a choice when they stop juveniles. They can bring the juvenile down and book him, send him to the police, to the juvenile court, or they can divert that person to a specific place called a runaway house.

The person who has served for two years as head of that runaway house reported that in those two years no black young person was brought into the runaway house by a police officer. This, to me, meant that all of the black young people who were picked up were arrested and carried to the court. The people who were diverted were all from the white community.

Charles Eberhart: I think that as a result of poor relationships between the minority community and the police that there is very little solving of the problem short of arrest. I think that if the relationship between the two groups was improved that we might be able to resolve many of the problems and conflicts that arise short of arrest. I just wanted to broaden what the first speaker said.

Edmund Jones: Before we can address this particular question, we have to talk about who the police are, what is the makeup. If you are talking about New York City, you are talking about 18,000 police officers and less than 2,000 blacks. If you talk about 2,000 sergeants there are 77 black sergeants. You have to begin there before you can talk about arrest rates.

The police department, just in terms of its makeup, does not reflect the character of the city, and I think we have to begin with that as a premise before you get to arrest rates, because that reflects what you see in arrest rates and all of the other kinds of statistical things.

Joaquin Avila: We have a serious problem in New York City because right now they are giving tests for police candidates, and what happened is that these tests don't conform with our community. They will never have the needed policemen from the Hispanic community and they will have the same problem forever because they are not doing anything to recruit Hispanic policemen in New York City.

Sam Sandos: I think there are two major factors that contribute toward the minority being given unequal treatment. I think the inability to afford proper legal representation gives the police full free license to pick up individuals. So, the lack of education in the legal process is one factor. The other deals with the training the officer is given, be he minority or whatever, particularly in Denver where you have a minority officer where some of the pressures in the training are given that force that officer to prove himself. As a consequence, he goes out and probably is a lot more forceful than he needs to be in terms of dealing with minority suspects, which all are.

Dewey Fuller: I would like to pick up on what was said about the police department being reflective of the community and talk about how the police perceive their role in reference to particular groups.

The majority group generally has a racist, negative attitude towards minorities, so the policeman is influenced by that perception, which then moves him to be a little bit more forceful, a little more negative or antagonistic in any confrontation with a minority. I think that has to be laid on the table and understood.

Sandos: The *Saginaw News*, Michigan, did a year-long study showing that minorities were arrested more frequently, for the same crime, than other citizens of the community. They got longer sentences and less plea bargaining was allowed. The story indicated not so much the police officer, but the entire justice system. It showed that it was not so much the responsibility of the police officer, but also the judges. It seems to me that maybe what we lack is an evaluation system for the administration of justice system. The only time you get any evaluation or feedback is from, like in our case, the newspaper.

Why hasn't the police department developed such an evaluation system? If I am going to go around beating heads, and you ask me to give you a perception of myself, no wonder the police come out so rosy all the time.

I think there should be some type of evaluation where somebody doesn't come on with a big stick and hit you over the head. An evaluation showing your weaknesses and your strengths. Our feeling, if I could speak for our LULAC in Michigan, is that the justice system has lacked this type of community-based evaluation system.

Norman R. Seay: I am vice-president of Blacks in Government and President of the NAACP, Montgomery County, Maryland.

I think most of the persons that have spoken so far, according to my hearing, have been representatives of civil rights organizations or community organizations. I do see some police officers in this room. I won't identify them, but I would want to know if it would be possible to hear their responses to this question.

Vernon Lewis: I am Assistant United States Attorney for the District of Kansas. I am not a police officer, but I am a career prosecutor, and the problem that I see—and some may disagree with this—is that we tend to class everything as a civil rights or human rights type of violation, and it has been my experience that that is not always the case. The same people who complain most about infringements on civil rights are people who are most frequently the victims of crimes. They complain and request more police protection than others. I think that what happens is that it is misinterpreted. That does not mean you go in as a law enforcement official and beat heads or make a great show of force, and I am not sure that the police officer or the community knows exactly what it is, but we at least are able to see that more force is not necessarily the answer.

The complaints that I receive from an accused whose rights allegedly have been infringed upon do not compare or are not as publicized as the complaints I receive from victims who want to know "Where is my redress for the loss of a loved one"? I think that is a problem a police officer addresses himself to more than the so-called social action groups. He is their only redress and I think that for the most part social action groups have been alleged to be perpetrator-oriented rather than victim oriented. It flipflops. You are the victim one day in the sense that the police are your friends, and you are the bad guy the next day, and it flip-flops. And I think we need to address ourselves to more of those kinds of changing positions within the minority community.

I think we need to direct ourselves to some of the problems facing the policemen. You know, I go out today and Mr. Smith is the victim, and he tells me how his house was broken into. I go out the next day, and he has been arrested, and he tells me how he was brutalized. And it causes a problem, and I think to a large degree it is an indictment against the social action people who are not responsive to the victims of minority crime. That is where the victims come in as well as the people that have records.

Borom: The gentlemen seems to feel there is some sort of conflict between the person wishing to have the protection of his property and, at the same time, wishing not to be brutalized if he finds himself in confrontation with a law enforcement official. I don't see a conflict in that kind of ongoing need to have a pattern of laws which is both just and at the same time effective.

Lewis: No, I am not saying that it is. If we had a computer that could mete out the proper amount of restraint, the proper amount of force, that would be different. And I am speaking primarily to the criminal justice system. It is not unlike anything else that you do in your day-to-day lives. It is business as usual.

There is a standardized presentence report that you go through and nine times out of 10 the minority is not going to check out. I would suggest ways of adjusting that evaluation system. I would suggest in terms of dealing with the disparity and victim, on the one hand, and the brutalized, on the other. Courses be given to officers in dealing with what might appear to them to be a potentially serious confrontation.

It gets out of hand when the officer intrudes without the proper knowledge. Those are the types of things I was trying to point out. That is not to say there is any justification but to simply say that is a problem that exists. It is a problem for the untrained officer to walk into that situation and expect him to do the right thing even 50 percent of the time.

Bill Hewitt: I find the further north I go in my job, and I started out in Georgia, where my daughter was born, the greater the intensity and quantity of discrimination. I have never been west, but now I have come from Georgia through Pennsylvania, and it is astonishing to me—and I have 28 years of experience in the business. I find many current top officials, both appointed and elected, to have been educated in the 1940s and 1950s. That gives the thrust of remaining traditional, and, for those who remain in those positions with that kind of background, they promote or advance those of the traditional mind. That lends itself to double standards.

I think there is, in my experience, an absence of consistent leadership in municipalities and states, which also lends itself to retaining the traditional. Those who are police officials and have been on the street and who have also been soliders, they would agree that nobody hates war or combat or adversity more than a police officer or soldier.

It has been my experience, particularly in recent years, that those who have been educated in the 1960s, that good officers want to talk with the community and the community wants to talk. It is a problem with many of those old-time appointed

and elected officials that they are afraid to take that kind of heat, and to them it is a threat. I am not the goody-goody. It makes me uncomfortable and gives me knots in the stomach too. But in your municipalities in the states, those are some of the things you are facing.

To me the issue is not just one of police-community relations, although that is the narrow focus of this meeting. Police-community relations is the top of a really large iceberg. It is a double standard, yes, but the double standards exist in education, by experience in health and employment, and, for Pete's sake, in garbage pickup. Maybe some day we can get Mr. Tyler a broader perspective or a lot of little perspectives put together, but that is what I had to say in response to you.

Rabbi Moshe Samber: I know that I am a decided minority here because I don't think there are too many clergymen, especially not too many Jewish clergymen here.

I think with the minority of clergymen around, there ought to be something said from the point of view of this very large iceberg, only the tip of which we find, that comes to the surface every once in awhile. I think we all ought to be spending more energy on trying to understand what the background of the general American attitudes towards violence is.

I do not expect in my lifetime to see here in the United States people reacting to police officers as the English do. Most English bobbies walk around without a gun. And I don't think that they have any higher rate of officers killed in the line of duty than we do.

As a clergyman, and somebody who likes to be representative of community interests, I don't see why the overwhelming majority, both black and white, can't do something about getting any kind--not effective--but any kind at all of handgun control law, which people talk about. Senator Kennedy has a good reason to be worried about these things that he doesn't mention. This is indicative of the idea we have towards violence in general, which will make our work either as police enforcement officers, members of the minority, or as members of the majority, ineffective unless we, at least in the back of our minds, recognize that.

And I want to say a word for the people of the majority. I think white people are just about equally divided. But I think we have got to be more sensitive towards those who are the victims, whether black or white. Maybe there ought to be sensitivity training in that aspect as well. So that if you are talking about it being reflective in a double standard in matters of arrest, I think somewhere in the minds of the white people is the double standard as well.

Gloria Perez: We are trying to isolate the issue of police and the double standard they use when, in essence, I think it has to be the total community since the police chief is elected. Everything is politics. The mayor is elected, and the people who vote generally are not minority people. So they represent the other aspect of the community, not the one that is generally in contact with the police all the time.

I think you have to look at your mayor, your councilmen, your educational board. We can't just isolate the police department. Who votes? It is not the minority people. So I think we have to take all of that into consideration, and everyone has a role to play in it, and it is the attitude really.

Walter Hawes: In New Jersey, we have the "Cinderella State." We have New York on one side and Philadelphia on the other side, and nobody cares about New Jersey. I have been involved since 1968 with the Urban League. Then I moved to LULAC, and, in 1974, we had the police attack in Newark in the Puerto Rican community with two persons dead "accidentally." One with the head opened wide, "accidentally," and the other shot in the chest with a shotgun. There was a grand jury investigation. Nothing happened.

In 1975, in Elizabeth, New Jersey, the all-white police force attacked the Cuban community. Nothing happened to the police. Not even an investigation. There were 200 people injured, fortunately none dead.

This year, a couple of months ago, the police bravely killed a five-foot, two-inch, Puerto Rican who weighed 102 pounds because he was a little crazy and had in his hand a small pair of scissors. He was coming down the fire escape and six brave policemen shot him 24 times.

Also, two or three months ago, in one of the interior states, a man held hostage a family on a farm. He was white and he was granted all of the considerations. He was armed to the teeth. He had all of the men in the house, raped all of the women in the house, and that gentlemen, because he was white, he was granted all guarantees. Nobody even touched a hair of his head. However, this little Puerto Rican got 24 shots.

If that is fiction, I don't know what is a fact. We have to control these things and we have to do something especially with the Department of Justice. My suggestion would be that every state should have a black Deputy U.S. Marshal, and a Spanish Deputy Marshal. So when these things happen, we can go to the places and have some kind of authority to question the police or stop it.

I have been with the Urban League 10 years and five years with LULAC, so I know what I am talking about. The state police in New Jersey are all white. Few cities have blacks or Spanish police.

Gleason Glover: I can't remember anyone being killed by police use of excessive force that wasn't a minority with the exception of a gay activist, who I must term as a minority.

McDonnough: On behalf of the many officers that I have worked with over the years, I think we should put in that there are aggravated assaults on policemen who work the street, and there are, indeed, policemen, who without justification or cause have been slain in the line of duty.

I think one of these folders indicated that it was several hundred in the 1960s and 1970s.

Arthur Slater: Police brutality is very definitely a fact. In Cincinnati in the last five years we have had eight police officers killed and nine civilians. For those of you who are not aware of our ethnic makeup, the largest minority group is blacks, and the second largest considered minority groups is Appalachian whites. And what we find is that the brutality runs along racism and classism lines.

We have had three whites killed. The last person killed by the police was a young white man sitting in his car. Six officers surrounded his car, at least six, and fired well over 100 rounds at the man in the car. We have very alarming statistics.

One of the things is that where you have cases of shots fired with actual deaths, you also have a large number of verbal and physical abuse complaints. In 1977, the Cincinnati Police Department logged 352 complaints of verbal and physical abuse. Nobody, with all of these things happening in this time span, thought to take a look at those very alarming statistics. What we have found, in comparing our statistics with comparable cities in the rest of the country, is that in a lot of cities where you have these deaths occurring you will also find a pattern of verbal abuses that allow a buildup to get out of hand.

Hopefully, with some new leadership, we will see a decrease in the number of complaints. This is a very important item that we can focus on. Those of you who are interested, if you will take a close look at the number of complaints of verbal and physical abuses logged by the police department, you will begin to understand that police brutality is a fact.

Over half of these 352 complaints in Cincinnati in 1977 were sustained against police officers. At this time, the City of Cincinnati is facing approximately $11 million in suits by citizens against police officers. The city in the past two years has paid out approximately $20,000 in-out-of court settlements to citizens. So at least in Cincinnati it is a very definite problem.

Mike Lefkow: You know, I was facetious when I made the statement about whether police excessive force is fact or fiction. If it is a fact, why can't we prove it. We sit in the room and you see it and I see it every day, but when it comes to the place we have to prove it to get some results, even in the Justice Department, we can't get the results, so it is a fact.

Lewis: As a trial attorney, and I will tell you that when you draw a jury from the base community—and I don't care if it is white or black—with the policeman you are going to have to go a step beyond reasonable doubt, and maybe that is arguable, as it should be, but if you have a policeman as a defendant, the prosecutor has got his work cut out for him.

We are faced in my area with an alarming problem in that the attitude taken toward the defense of property, the use of force is permeating into the community that the tip of the iceberg sits on. We have had within the last two years countless incidents where people have shot burglars or kids vandalizing, and this whole thing is just seeping down. What you get is those types of people on the jury, and I would say that this is an equal opportunity thing.

There are blacks and Mexican Americans that sit on these juries, and they say, well, I would have done the same thing had I been the officer, when you talk to them after a case. So it is an attitudinal thing. It is not necessarily all the officers because they get support from the community, and they get reinforced from both the majority community and the minority community.

Herman Ewing: I live in a state where the state legislature has passed a law which makes it appropriate for a policeman to shoot a fleeing felon or anyone who disobeys the instructions to stop. So, that element of excessive force is supported by a body of law.

Facilitator: What steps can police departments and community groups take to reduce the real or imagined problem of police use of excessive force? And list, if you will, in priority, what they are, starting with the police department.

Ewing: First, as to the adequate and proper selection of people who are authorized to enforce the law, an insecure person cannot enforce the law. There aren't very many really secure people in the world, so not too many police would you get.

But, anyway, the second point is that the police department has to be sold on the idea that they are not the sole barrier of law enforcement. They must, in fact, extend that responsibility to the private citizen.

What citizens can do once invited to share that responsibility, is to bear equal responsibility for assisting policemen to enforce the law. The only way that policemen alone can enforce the law is that you have one policeman for every citizen in this country, and that is an impossibility.

Bennie Butts: I would like to say that the problem of excessive force by police must consider the fact of what we as police officers perceive as excessive force. We are trained to use force that will overcome whatever force we are resisting.

I must admit that a lot of officers are unable to rationalize or to negotiate with minorities in most instances, and they have to resort, or they choose to resort, to violence or to force. This could be, and many times is, perceived as excessive force. It is the force they feel necessary to overcome the resistance.

One suggestion would be training programs that would acquaint the officers with violative contacts which escalate into a probable shooting. Most instances that I have heard mentioned were minor situations that escalated.

If you look at that you can see that the officer was taking the type of action he felt was necessary to confront that situation. We must attack that particular area of not allowing it to escalate to that level of confrontation. We need training programs to acquaint the recruit and an in-service program to acquaint the seasoned officer.

Dr. Ethel Allen: Most excessive violence by law enforcement officers stems back to the riots at the Democratic National Convention in Chicago, at which time it was considered by the majority people, who viewed that on television, that the officers were in their rights because what the Yippies, as they were called then, were demonstrating was un-American activity.

That mind set has progressed now from just the use of riots sticks, and gas to the use of deadly weapons. My question for the law enforcement people is, how are you going to reorient the thinking of somebody who has been in the department for 15 years, whose crime orientation was 1964, the civil rights movement, the Kent State shooting, the Vietnam protest, and the massive rebellions that you had by school children against the traditional school? How are you going to restrain somebody who has had an indoctrination program for the past 15 years and change him to a free-thinking individual?

I would like any police officer to respond.

Leroy Spivak: I think we have to stop playing games with ourselves, and we have to recognize that the whole issue of police brutality is a very human issue. I have been told for 22 years that the police never lose a fight. When I went out in the community, I knew that to lose a fight was to demean myself in the eyes of my peers and my superiors. And I submit to you that is true today. The issue of the excessive force, the excessive number of killings, is never to lose.

The feeling on the part of minorities toward the police is very normal. It is natural and normal for people to attempt to conquer those that they don't understand.

I have to relate to my own experiences as a black. I worked in the black ghetto. As long as I rode in the black community, there was nothing threatening about that. I was very comfortable regardless of what I recall. I was not threatened. I was at home.

I had a most wonderful experience of being assigned to a Chicano community. O.K. For the first time in my life I experienced fear because I didn't understand. I have to submit to you that I was more fearful about losing to the Chicano than I was to the blacks. I had to ask myself what I had to deal with. I also felt the same degree of trepidation when I was placed in an all-white community.

Let's turn that around, and now we have the predominant white officer being assigned to a black or Chicano community. He is afraid, and nobody wants to deal with that. And the failure of us to recognize that that is the problem hampers an effective resolution to that problem. It is natural if I am fearful of someone and I want to exert that masculinity. I will conquer him. How? With force. It is a very normal and natural thing. The policemen have to be honest with themselves to have to admit that that is a great deal of a problem. We don't deal with that, so we can't develop training mechanisms. There are a lot of things we can't do. We can't develop the kind of support mechanisms in the community because when I am a senior law enforcement official we sit back in our glass houses and we fail to admit. Why? Because to admit that that exists today is to admit our own sense of inadequacy.

How many times have I sat at board meetings and staff meetings and listened to, "We understand. Ha, ha, ha." Ha, ha, hell. As long as we adopt that kind of attitude we can't begin to effectively address the issue of police brutality, these killings or anything else, and that is why the problem exists.

Hector Soto: I think there has to be a human element because there are human beings involved. I agree there is fear, but I think that can be dealt with in some form through some sort of sensitivity or training.

I think another part is there are too many stories of white cops shooting at black cops who are dressed in plain clothes, and there aren't a lot of stories about black cops shooting perpetrators. So I have problems with the fear. It is only working one way. There are too many stories of white officers approaching minority group people, with a hostile attitude in a situation that is not hostile at all, something as simple as stopping someone on a highway for some sort of traffic violation. All right. So that is not a hostile situation of walking through the ghetto or ridding through the ghettos and feeling up tight and coming out with the hands on the gun and not doing the same thing where it is a white person stopped. Those kinds of behaviors indicate something else is going on. That is the bottom line.

I would just like to make this suggestion. I believe that the police departments, and especially in the disciplinary process, have to involve the community people in all of their decision-making processes.

I have real problems with police continuing to investigate police and with grand juries that are secretive in nature where we don't know what is being presented by the district attorneys who depend on police to build their records and their careers. There is an inherent conflict of interest even if everybody is acting in good faith. The D.A. has to depend on police officers to build up his case record and show how good he is. He is going to be reluctant, even though unconsciously, about going forward and prosecuting a policeman. They might not cooperate with him or her in the future.

I think in the decisionmaking process, particularly in this matter, there have to be community people involved on an independent basis.

Art Walters: It seems to me in the light of the remarks of the last two days that a suggestion might be the implementation of an effective affirmative action program. I suspect there is a high correlation between those police departments that are representative in terms of race and sex of the community they serve and the pressures of absence of excessive use of force. It speaks to the understanding of the cultural settings of individuals that make up the community. But equally important is that a lily-white department is going to be perceived in a totally different way than an integrated one. And one that is totally white male is going to be perceived in a different way than if it has both men and women and black and white. So that is one specific thing I would urge very much as a part of the action.

Dwight Burgess: Dr. Allen mentioned a few moments ago what happened in the 1960s. We are talking about training. Who are we going to get to train these people? Are we talking about officers, maybe black and white, in the 1960s who had all different kinds of thinking as it relates to racial whatever you want to call it? Who are we going to get to train these people? Where are we going to find them? Are we going to call people in from the communities to do it? Who is going to do it?

Charles Whittier: I would like to probably respond more directly to the young lady, which relates to who are we recruiting now. I know, at least in our department, that the average age of our officers and average time on the force, respectively is 25 and 10 years. I would suggest from that time alone that the people we recruit are people who were the hippies, who were the dissidents in that era. I don't really think that has a lot to do with it.

It has been my experience as a career officer, with 25 years in my department, to say that the recruits we take in are more in tune and liberal to the thinking of society.

Some of the things that plagued me are not the fault of the individual police officer. I think, as the brother officer here says, it is the fault of the administrator and the community. The

thing that bothers me, at least in my city, is that we have a case of excessive force and all hell breaks loose at the time. We have meetings, we have demonstrations, and three days later we call a meeting and those community leaders who were so very verbal have now dissipated and there is no more interest in that.

Now, certainly it seems to me that the chief administrator of any police department should continue that process, with or without the input of the community. For the most part, that is continuing. But, unfortunately, what happens is the community isn't aware of what has taken place with that complaint because suddenly the interest is lost and without backing it up I certainly agree that excessive force is a reality. It is not a myth, it is reality. There is no doubt about it, but I think what we have to do in law enforcement is to find ways to better train and equip our people to deal with stress.

I wasn't always a police officer, and I didn't come on my job with the idea of being the oppressor because I had been something else before. I had the same feelings about police work before I was a police officer. Once you are here, once you walk the beat, once you are faced with some of the same things, the pressures that some of the police officers are faced with, it is not difficult to understand their feelings.

You put it bluntly, there are fears. It is not fear of being hurt. Not a day passes when I leave home and kiss my wife goodbye that she doesn't say. "Return safely." It is the name of the game, survival, whether you are a police officer or not. The name of the game is survival, but certainly not through excessive force on the part of the police. I am not suggesting that. It is very difficult to sit back and say that all police use excessive force.

Allen: I happen to live in the city of Philadelphia, the Cradle of Liberty, City of Brotherly Love, supposed Sister of the Affection, where we have a major or police chief who said a policeman could do no wrong, and where your five-year police officers—and we start them at 18—are committing more of the excessive and deadly force crimes than are the old police officers. So what you are saying is happening in New Haven is beautiful. Young people are more responsive to the problem, but in Philadelphia it is the opposite situation.

Whittier: It is the leadership.

Allen: I understand that it is not only police leadership but also political considerations. You need to put politics out there with the community.

Facilitator: Let's move on to what community groups can do.

Seay: When I hear the word "excessive force," I think of a gamut from beating all of the way up to shooting. But when I hear deadly force, as a layman I think of shooting. So as far as I am concerned, what I am about to say is not unique. I think that an officer should pull his weapon only on one occasion and one occasion only, and that is when he is protecting himself or someone else. Those are the only two situations. Secondly, I think it is extremely important to tie or relate that officer's performance with his or her maintaining the job. There needs to be some evaluation of that officer, the number of times that he or she is involved in some type of activity involving excessive force, the implementation of it by the administration.

Facilitator: How about the community?

Borom: We talk about survival. I have not done an exhaustive study, but as I have looked at cases around the country, in most cases where there is a death at the hands of police, it is not when it is an individual that has got a gun, it is a 14-year-old kid running away from a stolen car. It is a lone person who is being beaten sitting in the back of a police car. He is beaten and thrown into a river. You know, those are not cases where the survival of the police officer is involved.

A majority of these cases are willful and malicious taking of lives or physical damages to individuals who are not only harmless to the police but in fact incapacitated by a majority police situation.

Given that, it seems to me, we can blame the community or some city. But in the final analysis we are talking about an unlawful act. The police officers always come forward and testify in favor of their brother who is being charged.

Somehow we have got to have better investigations on a federal and statewide level so we can in fact begin to prosecute some of these people.

The other thing is in terms of the local police operations, we in the community have to begin to form ongoing institutionalized kinds of organizations to monitor or to stay on top of what happens in terms of contact between police and communities. By the way, we can go back as far as we want in American history where blacks and other minority groups have

been killed by police officers in a far greater percentage than other people have. So this is not a new problem. It is getting worse.

Jose Flores: I guess part of the solution is that people who work with police and people who work with the Department of Justice should live and function in the ghettos and barrios where the excess of police brutality exists. By living there they will become a part of the life in the ghetto, and I assure you that within two years there will not be these killings or use of excessive force in those areas.

John Johnson: I come from New York where we have about 26,000 police officers, who average 39 years of age and who have been in service from 15 to 20 years, and we talk about training that is going to be effective as it relates to the community.

New York, as a result of the rashes of shootings, including the Bay East killing, exerted pressure on the city administrator to develop some mechanism for the police to better handle their role in the community. The police academy has now begun to develop a training program to include video tape programming and dialogue to train the officers in alternative methods other than excessive force. We had to make certain observations to the police department on their video tape because it gave a nonverbal message of power and force. We know that was the impact of the visual part, also. So we suggested that they redo the tape so that it was not as negative as it had been.

We recommended including black subjects and bilingual people as actors, and to utilize the mental health services in the training process for the police officers, so there are things that result from the pressure exerted by the community in New York.

Fred Gray: I can't begin to count the number of situations in which I have been involved where this same subject has been discussed, and, invariably, when we are discussing mechanisms for dealing with this problem the word "training" comes up.

I am not an educator, but I can't, for the life of me, see how we can say that when a group of people are placed in a room for a period of time and exposed to a bulk of information that they have been trained. This does not make sense to me. I just can't put it together. I would think, were I an educator, that there would have to be some kind of evaluative process that would determine the level of retention and comprehension of the material that is presented. Otherwise, I think we are beating our wings in the air.

I don't think that putting a group of police officers in a room and exposing them to a prescribed curriculum is going to change them—nor is putting a group of community people in a room and exposing them to a bulk of information is going to change them.

I would like to see us leave this conference with a mechanism involving people in the community and police officials that would put together a training curriculum to include an evaluative process as a followup in order to determine whether or not anything has been learned from the experience. Without that I think we are wasting our time.

We have come here today, hopefully, to do something together, to make the communities in which we live better able to deal with the problem of police excessive force, to bridge the chasm between police and community. We can spend the next three days talking about the problems or we can spend the bulk of our time trying to put together mechanisms that will enable us to change the thinking of both police and community about each other.

Fuller: I think we are focusing too much on the negative model. We all are here representing the target groups that are victims. Let's pose a question. Implied in all of our discussions is that the police do function well in other areas of the community where the makeup is different. So, obviously they do know how to function, whether it is a white community in the suburbs or whatever. Whether you call it training or additional training, maybe we need to focus on some of what the policeman perceives his role to be when he goes to that kind of community, as opposed to what he does when he sees a black face or Chicano or some low income white, as he does in Cincinnati.

Maybe we need to see because there is that informal support system within the administration, within the ranks, that lets that officer know early on that if he is going out to Kenwood in Cincinnati, if he is going out to Indian Hills, he is not going to go out there with the same posture and with the same readiness to respond even to the same kinds of situations. He understands that this is a different group, so he is going to go with a readiness to be more humane, a little more understanding, and to use the force if he has to, but as a last adjustment.

I am suggesting we are focusing maybe a little too long on the negative model and we ought to look at what the police already have and do somewhere else and see if we can't find a solution.

Larry Ware: Mr. Gray was talking about something that we could kind of go with. He talked about evaluation, and here is a word that police officers don't like: psychological. I think that is the only way you can evaluate the police officers. Unless you have an outside group come in with a psychological group, you will not be able to determine whether a policeman is fit to do the job or not. Their self-interest will prevent good test results on their own group.

Group C

Facilitator: We will open the floor for commentary on the question: Is the issue of the police use of excessive force fact or fiction?

Maria Rodriquez: Police use of excessive force is definitely a fact. I feel that excessive force is both verbal and physical; and that verbal force is incriminating to young ladies.

Officers tell young ladies, "Boy, you sure look good. Have you turned enough tricks this evening?" That, too, is a form of excessive force.

Also, I think police departments should revert to the old days of having a woman present to frisk young women. In San

Jose, California, we have complaints of young women being frisked publicly in front of their brothers, cousins, and boyfriends, and it creates mental problems.

So, other than physical excessive force, there exists this other type of excessive force.

Gilberto Jasso: The National Office of Civil Rights of the American G.I. Forum takes the position that the Constitution is a written contract between the people and the United States Government. This U.S. document must be enforced or it will become meaningless.

The dangerous, horrifying precedents of violations against minorities is leading toward the possible overthrow of the U.S. Constitution. We are outraged as to the similarities of constitutional violations, the resemblance of violations which are totally equal to the tactics used by the gestapo during the Third Reich in Nazi Germany during the prosecution of the Jews.

Some of the unconstitutional violations, tactics by law enforcement agencies are as follows: Denial of equal protection of the law, denial of due process, justice without trial, cruel and unusual punishment, torture for confessions, wiretapping, prosecution of Hispanics, blacks, and other minorities by the use of deadly force, unreasonable searches and seizures, et cetera. There is a long list.

There are also examples of permissiveness against American minorities. Today the KKK and the Nazi Party, representatives of the "master race," are together killing and depriving minorities of their individual liberties throughout the United States and are on our international borders where minorities live.

Rather than the government outlawing these documented assassin groups, they have been able to exist and multiply because of U.S. Government permissiveness and because they are white.

The U.S. watchman has turned his back on the United States Constitution, even though it took the heavy losses of many American war dead, including American minorities of which 22 Mexican Americans received Congressional Medals of Honor. They died to preserve, protect, and defend the Constitution.

We ask these questions. Why is there a disproportionate number of blacks, Hispanics, and other minorities killed by the use of deadly force by law enforcement agencies in many cities all over America even though the minority population is very low in comparison with the Anglo population? Is there a conspiracy of silence by the judges in America against American minorities?

Why is there such a disproportionate number of minorities being brought before judges by predominately white law enforcement officers?

The National Office of Civil Rights concludes by stating that we do not live in a gray European communist country behind the iron curtain. We live in the United States of America, and the United States Constitution is alive and in full force and effect.

The persecution of American minorities is unconstitutional, inhuman, unjust, and anti-Christian. Our national office joins with you in bringing a halt to the persecution of American minorities in the United States and to preserve the Constitution.

Chuck Pratt: Since we all would recognize the problem, let's see if we can't find a solution and some answers to it.

When people are killed by police officers I think oftentimes it is not so much a matter of any racial or minority situation as it is poor police work.

I know in my area of Hollywood Park, Texas, the problem is one of recruiting, training, and management, and this is true in most of the departments I have observed. We have worked very hard to overcome these problems in our department. In the four years since I've been there, nothing like this has raised its ugly head. I believe it is an internal matter for police.

If we're going to be here worrying about justice and equality, then we need to look at them realistically. What is justice and what is equality under our system? And I would say to you there ain't no such animal, folks, for any of us regardless of what group we belong to.

When you go back home, get with your police administrator, select representatives of your group, and have a telephone set up where you can reach him and he can reach you quickly before an emergency arises.

Facilitator: What steps can police departments and community groups take to reduce the real or imagined problem of the police use of excessive force? And here it is broken down into commentary as it reflects to the police department, to community groups and to the police and community jointly involved, and so may we have some commentary on that question?

Gilbert Salcido: I think one of the major steps to avoid excessive force is to make sure that community people, instead of people who have a vested interest, serve on police review boards. That is one of the most essential things.

Rev. Milton Merriweather: As community group leaders, I think all of us need to get together and insist that we get a civilian review board, along with freedom of information, because we've found out in Los Angeles that it is totally impossible for police to police one another.

Sam Jones: It seems to me that particularly with the police department, there must be a clear and unequivocal policy with reference to the use of firearms within the broad framework of deadly force.

My experience in Indiana is that most of the deadly force problems we have relate to the use of firearms and the shooting of "fleeing felons," most of whom are very harmless because they are running away from a police officer—as opposed to threatening the officer's life.

That is tied in with the fact that we must participate in the political process to make sure we elect a mayor and other officials who are sensitive and will assure that there is a restrictive firearms policy on the use of deadly force.

Percy Steele: In Oakland, California, so far this year, there have been 12 shootings by police officers, 11 of which were black. So, I think there ought to be clearer guidelines, not only in terms of guidelines for excessive force but on the kind of weapons that police officers can use.

I don't agree that police review boards, per se, are a panacea to the problems we are talking about. I've been in communities where we've had police review boards. They have not been effective. They have hampered the work of law enforcement and the community.

I've been in other communities where police review boards or some other such organizations have been very effective. It really depends on the city and the police administrations. What we need to do more is sit down with law enforcement leadership and city leadership and work together to eliminate these problems. The same thing may not work in every community. So we have to tailor it to the uniqueness of the city that we are in.

Chanzel Brown: Human relations and sensitivity training for the police leadership is critical, primarily because the attitude of leadership, in large measure, determines whether or not the use of deadly force will be tolerated.

And in too many instances, the human relations training takes place with the lieutenants down rather than starting with the chief.

Louis Zapata: In Fort Worth, Texas, we had a shooting where both police officer and the person that they were looking for were involved.

Unfortunately, one wounded police officer killed his own partner, so there were two deaths and one wounded.

What we did was take advocacy groups, like the Brown Berets, G.I. Forum, attorneys for the Justice Department's civil rights division, plus the family of the deceased, and we all met in one room with the chief of police and his attorney. And we stayed about an hour doing it, but during that session, we got it pinned down to about four items, each of which was clearly investigated, defined and dealt with. So it was those lines of communication being opened, and it was unique because the family of the deceased was making the direct accusations.

Maxine Smith: I am from Memphis, and my good friend Billy Kyles, who heads Operation Push, and I have been working together for 20 years on this very problem.

First of all, we must realize that the whole scheme of administration of justice in any community is just a smaller microcosm of this whole society, and Memphis happens to be a very racist city.

We have done all the things everybody has said about confrontations with those involved, the mayor and all the way up to the attorney general. And actually I think that, from afar, progress seems a little better than it is when you are sitting in Memphis looking at it.

The Justice Department is looking very closely at us because of complaints we have filed primarily on the shootings or killings. We finally have a director of police who is becoming sensitive to the problems that we share today.

I think community pressure is about the only thing when you have insensitive, racist people running a town. In Memphis, finally in our present director, if he, indeed, is still there, we have the kind of sensitivity that is needed in the kinds of problems we are talking about.

Joe Martinez: We have found that, in some of our training sessions, officers are well aware of the personal liability which they face. One of the things we have also asked our chief is to meet with the ministerial alliance because, coming from a religious background, I feel that the moral law is a lot greater than anything we could possibly come up with.

Spruiel White: I am from the Seattle Urban League, and my sense of the issue is that, in fact, there is not a need for the design of new programs. It is rather to capture the commitment and financial resources and interest of police officials, the cities, and various communities we represent so that they can reiterate commitment to those programs and structures, that through the budgeting process, provides an ongoing process of public relations with communities and sensitivity sessions between police and potential persons within the communities with whom they'll come in contact.

Rev. Merriweather: I know one thing that would help prevent some of the force used. In Los Angeles, we have a lot of men on PCP, and when the officers get there, the minute they approach this person, they approach him and beat him. And I think they need training on how to approach men who are on drugs.

I have had the experience of approaching men and women who are on PCP, and I approach them quietly. They are already hyped up. They are already excited.

If the police were trained to make the proper approach, how to talk to them, they will calm down and do almost anything you say. So I think that most of our problem in Los Angeles, as far as arresting people who are on PCP is concerned, is improper training.

Victor Sanchez: I am a police officer with the Sacramento Lationo Police Officers Association. I've heard about the Seattle program and the role of September Associates Incorporated. I don't know much about it, but from what I've heard it is an excellent program. If, indeed, it is, I suggest that the Department of Justice establish that as one form of training for all incoming and inservice police officers in the academies, and then at least on a yearly basis.

As police officers you can tell us situations where we can and shouldn't use deadly force. But if I get a report of someone holding up a store with a gun, and I arrive and he turns with something in his hand, and somebody points and says, "He's the one," what am I suppose to do? Do I stand there and evaluate the whole situation in a matter of seconds before I get shot? Am I to rush him? Or am I to run away?

I don't know how to answer those questions. There have been, to my knowledge, no programs developed until now that can put me in the actual situation. That is what we need.

Ed Morrone: I am police chief in New Haven, Connecticut. I think part of our problem is that down where you are and up where I am—we just don't see eye-to-eye. We don't communicate along those lines—that is, patrol officer and chief of police or policymakers. There is a credibility gap that we have created. By "we", I don't necessarily mean the police administrator, but people created that makes you unsure what in the

hell do I mean when I send something to you in the way of a direction.

A classic example of that are the problems that police are expected to solve for society. In New Haven, last year, for instance, 15 percent of our complaints were noise complaints. We don't have the answer to noise in 1979. Entertainment gear can be very noisy. Trailer trucks are very noisy.

But I think that in areas such as firearms use, we have to come up with absolutes. When we say a mustache will not go beyond the lower lip and the hair won't go down below your earlobe, we seem to get 99 percent compliance. This is what you do, and if you don't you know you are in trouble.

Now, with a firearm. It is very, very difficult to clearly tell you how to proceed step-by-step. On the one hand, we say "Use your own judgment in those kinds of things." Interpreted, this means: "Don't bug me with that kind of question that I don't have the answer to."

But it seems to me that we have to get down to what we have done in our department. Yes, a lot of crooks are going to get away, no question about it. But we say that you will now use that firearm except to defend your own life of someone else. Absolutes inspite of what the state statutes say.

We investigate every gun shot that is fired. First of all, there is no such thing as a warning shot. But if we have a warning shot or an accidental discharge of a firearm at 3:00 in the morning, internal affairs investigate that spent shot beginning right then and there.

So it is very ambiguous in a whole lot of areas, but I think that is as clear-cut as our haircut line that you can mandate.

Steele: I would like to say we've got a police chief here whom I think is rather progressive. We got a police chief in San Francisco who has already been fired come January 8 because he held his officers back from shooting into a crowd when the gays were storming as a result of the verdict in the Dan White case.

He saved a lot of lives because of that, but now he is being fired. And I would like to hear more of these kinds of policies so that we can take something back. I would like to sit down with the 32 chiefs in the Bay area to talk about some of these things, and I want to be able to take something back. And he has given me something that I would like to hear. Maybe some others have some similar comment about enlightened police administration.

Arthur Montoya: I am with the CRS Denver office, and I would like to speak from the CRS prospective, that of former law enforcement officer, and also from a citizen's perspective.

I think that any chief of police who finds that an officer has fired that weapon, regardless of the reason, should submit a report. If that weapon was misused, mishandled, regardless of whether anybody was hurt or not, I think that the function of that administrator is to file charges against that officer.

If as a citizen, I fire a firearm within city limits I'm subject to rules and regulations that city may have. And I think that, especially an officer, who is suppose to be trained, should be subject to the same constraint.

Jones: In my town, the Fraternal Order of Police (FOP) would sue the hell out of the chief and the rest of us, and they have money to do it. Most of us in the community aren't prepared to take them on. That is the other problem we face.

And you guys who are in law enforcement, if you are honest, you know what I am saying. The FOP is probably the strongest, most powerful lobbying force that police officers have. It is a powerful force in the protection of local police officers, and you better keep that in mind when you are planning your strategy.

Dennis Brennan: I represent what I like to call a labor organization. It is a union that represents some 3,000 detectives in the city of New York, and I see that you are beginning to focus on the rank and file police officer vis-a-vis the chief executive or the police commissioner.

I hope that we come away from this consultation with steps to facilitate the lessening of tension and confrontation and, hopefully, the use of excessive force.

When dealing with a bureaucracy, when dealing with the police administration, you are dealing with a political subdivision, and part of the problem is that you are not only dealing with that police chief and the hierarchy of that organization, but you are also dealing with the mayor and with the local legislature.

Rather than view it as the FOP, Police Benevolent Association, or whatever is the rank-and-file group, whether bona fide labor organization or a professional association, I recommend that you establish links of communication. The police officer also finds himself in-between the community which he is sworn to protect and the police administration. And oftentimes, the police administration does not share the same view as police officers who are told to go out and do a job. He is often caught between the community and many political decisions that he doesn't share in.

But I would suggest that local community groups begin to establish links with the local rank and file police organization.

Speaking as a professional law enforcement officer for over 22 years and as an executive of a large police union for the past 10, I believe links of communication can be established to not only improve and establish trust between police and community, but which can have an impact upon political decisions that are made on high.

Morrone: First of all, I have to disagree with the gentleman from New York. When I first introduced firearms policy, I was approached by the union and told that it was negotiable. We would talk about it at the bargaining table. It didn't matter that we were talking about people's lives.

I think that kind of approach reaches the point of being totally absurd insofar as dealing with a union on an issue of that magnitude. The hair-grooming kinds of things I suggest, are, perhaps, negotiable kinds of areas.

I've heard things ranging from rubber bullets, as a means of stopping people from getting killed to hollow point bullets, which to me is equally absurd.

When a police officer should use a weapon, it should be to kill someone. There is no question about that. When he's

justified in killing, he should knock that person down so that he himself can't get killed.

I don't think there are any magic formulas for this kind of thing without going back to the credibility gap that I think exists within police departments that maybe most of you are not aware of.

You know, we go back to the '50's and the '60's with police officers when we conditioned them to "you're the enemy out there demonstrating out in the street." When some blacks were screaming "burn, baby, burn", we were conditioning cops to "you stop baby from burning." And that is coming back here to kind of haunt us a little bit.

And it is no wonder that they are confused. We spend an awful lot of time in conferences like this, with our computers, and we look around on the third floor, and think everything is really nice and rosy. But we never really get down to dealing with the product that comes out at the other end. Unfortunately, you have to be autocractic with things of such magnitude as use of firearms. It has to be absolute. That is the way to deal with it.

Then we must think in long terms of how to change attitudes of police officers. The way to do this is to build confidence within the community. The way you build confidence within the minority community is, in your recruiting, to come up with the numbers of people in your police department that represent the community in order to build credibility with the community. I really think that is what you have to do. There are really no shortcuts.

Brown: I think he's right. I think he's got the answer.

The captains and chiefs who are now in place were patrolmen and sergeants in the 1960's. They took that attitude from the streets with them.

So if they are not given the help to change, it is going to stay the way it is.

Rev. S. B. Kyles: I think this kind of conference is historic in that it has invited a cross-section of people.

In an atmosphere like this where we can hear a patrolman's point of view and a chief's point of view, whether we like it or not, at least we can listen to it, I think that is good, and I think it is healthy.

The other thing is the illustration that the patrolman gave. In Memphis, most of our cases have not been that clear. It is usually somebody running away. The policeman's life is not in danger. No citizen's life is in danger.

Or in some cases, it's the policeman answering a call, a family disturbance, and maybe it's too much to put on a policeman to go and settle a family squabble. If the wife calls the police on the husband, she doesn't want him killed. She just wants the beating stopped. Somewhere around the country, there are teams where guys without guns go in and try to resolve domestic problems. A wife can call a policeman on her husband, and he winds up dead.

Recently, some young guys were milling on the street corner. Somebody had been robbed someplace. Well, the natural tendency of the guys in Memphis on the corner, when the police come, is to run. So they all ran.

The police chased one guy, shot at him with a shotgun. If the guy had not tripped, he would have been dead. He tripped and the pellets went over head. The police review board, made up of policemen, found no cause. The action was justified because the police thought they had reasonable doubt or concern that some of them had committed a crime.

But it is these kinds of cases, more than the outright criminal with a gun on somebody, that we are concerned about.

Rev. Merriweather: What this gentlemen just said was that most of the black people who are killed by the police are not criminals. Just like he says, some of them only committed traffic violations. We had someone killed recently who was beaten to death with clubs. He was drunk. How can a drunk fight? They called the police to pull him out of the bar, and the police got him and they beat him to death.

So these are not all criminals that are getting killed. They don't have guns. Last year we had 23 unarmed men that were killed by the Los Angeles police. Not one of those officers has been to trial yet. This is the trouble.

Sanchez: Sacramento has one of the most, if not the most, stringent use of deadly force policies in California, and everybody lives with it. The problem that the police officers have is that we don't know where we stand. The California Supreme Court several months ago said that if you violate a departmental policy, even though you were covered by state law, you were still civilly liable.

So the police officer is damned if he does and is damned if he doesn't. And I think the very stringent guidelines on the use of deadly force is an excellent way of, maybe, curbing some of the unjustifiable homicides that have occurred.

Pratt: Chief Morrone's ruling is basically the same as the one I installed when I became chief. No mortal force shall be exercised unless the officer has reason to believe and does believe that mortal force is going to be exercised against him or someone else. Life is not negotiable. If an officer screws up and kills somebody and gets sued, I'm the one to get sued, and it would take me a long time with the little I got. Life is not and should not be negotiable. And if you can get your departments to adopt that kind of a rule, you would eliminate most of your problems, because it can give your police officers some good, sound guidance, and it works.

Smith: I just wonder if we could establish, in line with what the police officer just said, some sort of lobbying force for a policy.

In Memphis, they say that under state law, it is legal to shoot at a fleeing felon. They've changed that a little now so you can't shoot at a minor. So you have to stop and ask his age.

But then in one month not too long ago, we had five blacks killed by police officers in as many weeks. People from Justice came down, but they couldn't touch some of these cases because it was not a violation of state law.

So there seems to me a need to clean up all departments of law enforcement, and perhaps we just need to get uniform laws.

Dr. Garry Mendez: I would like to hear more about how effective various shooting policies are. Some people argue it makes no difference what kind of shooting policy you have.

Some places have policies allowing the shooting of a fleeing felon, and the shooting rate is no higher than the place where you can't shoot anybody. So I am wondering which way to go.

Daniel Congers: I am Chief of Police in Plainfield, New Jersey. We have a firearms use policy that goes back to 1971. And it is probably as restrictive as New Haven, and, like most jurisdictions, I think goes beyond the mandates of state law.

We can be more restrictive than state law, if we want to. But naturally, we cannot be easier than the state code. We have not had, to the best of my knowledge, I have to be careful here, a firearm discharged at anyone in our city in about two years.

My policy, as chief of police, is Thou shalt not. We have a review board composed of police management officials that reviews the discharge of every weapon, and we have initiated disciplinary actions for these reasons.

We review every time a weapon is taken from an individual holster or from the car, if it is a shotgun. We have a general policy that you do not use a weapon unless it is a last resort. And I think it has worked pretty well.

Emory Jackson: You'll find that police departments have deadly force policies similar to those just mentioned, but the chiefs of police won't exercise or execute those policies.

So it doesn't matter if policy is good if no one is implementing it. The only way you are able to find whether or not these policies are carried out is to have some access to the information with regard to shootings.

And I think you'll find, in the vast majority of police departments throughout the United States, that they don't publish deadly force statistics. If they're doing such a great job, and I'm not singling anybody out, why is there such a reluctance to say in 1978 we shot and killed x number of people so that the public knows, first, whether the policy is proper, and, second, if it is proper, whether or not it is being executed?

And I just have a question, perhaps, of you, chief, do you publish your deadly force statistics?

Morrone: First, those statistics are published by the FBI on an annual basis, and they are available, on a quarterly basis, not only on police officers shot in the line of duty, but people who are shot by police officers.

Jackson: But the public doesn't have access to it?

Morrone: Oh, yes. You can get it from public libraries, its called Crime in the United States.

Mendez: I don't think that is exactly accurate. I think you can get how many police are shot, but not how many citizens are shot.

Morrone: Yes, that is in there.

Mendez: Well, that is new, because they weren't doing that.

Gilbert Jasso: Many deaths are taking place in California and all over the country. They put a little article in the newspaper. We never know about them. We haven't seen them printed like he said. But every death of a policeman throughout the U.S. has been headlines.

Zapata: We have a problem with the second and third line echelon. You have a directive coming down, but it never gets down to the rank and file who sit over there wondering, "What the hell am I suppose to do"?

We need to bridge that gap. We need to emphasize to the police department that if they are ever going to change the attitude of the people, of the people wanting to become policemen, they must do like the fire department, which always gets the type of people they want. They've got an ongoing public relations thing, and I think we should start going to the schools. I'm not a policeman, but a police officer.

We need to start doing some of that so that there is not that fear. The first thing children learn basically is to fear a policeman rather than to respect him. And I think we've got to change that in order for the whole society to change.

U.S. Attorney Sidney Lezak: I am the U.S. Attorney for Oregon. The federal government's role in this matter needs to be thought about in this sense. What we find is a lot of police chiefs who are interested in meeting the same standard as has been mentioned, but who have the active opposition of the lower echelons of the force. In addition, when you talk about the police going out into the community, if they do go out they often get support for a more restrictive set of practices than they already have.

I think the U.S. Attorneys see themselves as part of the Civil Rights Division's increasingly militant stance on police excessive use of force, in part as a safety valve. It is a way for the police chiefs to say to their men and women, if they are involved in this, that regardless of what you believe, in fact, you have to practice these policies even if they are not enacted into law. Because if you don't practice these restrictive policies, you will get Federal heat.

The police chief having problems instituting change can use the Federal effort as a way of calling for, of creating gradually—and these things must be done in some communities gradually—increased pressure, aided by the Community Relations Service and other such local services.

And, I say to you, if murders by police are taking place in your community and you just see a little item in the paper, if you report them to your United States Attorney, almost to a person, they will, at least, see to it that there is an FBI investigation.

The FBI is doing a much better job than it used to do in these cases. They are no longer patsies. I think we have a role to play and at least it should be noted.

Rev. Merriweather: The U.S. Attorney in Los Angeles was once assistant to the district attorney. And we reported murders that the police had committed in Los Angeles; we had documented proof that they were wrong. We took it to her, and she agreed with the internal police affairs investigation. She agreed with the majority report.

Also, the Eulia Love case. I'm the man who caused that case to be reopened. When we found that the district attorney had lied because she had relied on the other investigation, she still took a stand, which she hasn't changed as of yet.

That may work in some places. But you can't compare Los Angeles with another city. It is totally impossible. The chief we got ain't worth a nickel.

Steele: There was a suggestion made about plugging into the rank and file police officers groups, and I'm wondering if there are only successful examples of how that might be accomplished. In San Diego, we had a good relationship, but in the Bay Area, the police officers association doesn't want to talk to you if you're black or Hispanic. In fact, they don't want any black or Hispanic officers among their ranks, and they make it well known. So I don't know how you are going to work within that kind of system.

Brennan: I think part of our problem, looking for solutions on a national basis or nationwide basis, is that we are trying to take too many pieces and put together a whole.

I represent a fairly large police union, the second in the state of New York, and while I don't like to engage in this, on my executive board I have two blacks.

We will meet with any segment of the population at any time, anywhere. That is the policy of my board. We realize that we need that constituency for us to exist as police officers, for us to be effectively able to do our job.

We just formed a speakers committee made up of working detectives who are willing to go before any community group to let them know our problems, to find out what their problems are, and to work together for the community because we all live in the community.

Mendez: I am interested in how the relationship evolved. I have heard that the community should work with the police. And I know that community relations groups are sometimes organized. But are there any parts that should be initiated by police departments? I've heard police say the community needs to do things with us. But I don't really see the police saying, "Here is what we will be doing." Maybe someone could tell us someway we could deal with that so people will have an understanding when they go into such a situation.

Brennan: Well, I think part of the problem is that all of us are used to dealing with organizations that are easily identifiable. For example, in New York, if you wanted to deal with a police-community problem, you'd address yourself to the police commissioner.

What I am suggesting is that there are other areas and other approaches. If there is a particular problem, it might be a good idea for the local community leader to say, "Hey, not only am I going to write the police commissioner and the chief of police, but I'm going to find out who is running that rank and file organization. I want to send him a letter or I want to give him a call."

Just a request may open up a lot of doors. We're not, as has been said here by the chief from New Haven, always in a position of saying: "Hey, we're against it." We are not people who are always against liberalizing the police policies in terms of excessive force.

At least in New York, my union has never questioned the department in the use of a firearms policy, nor would I think of putting such an item on the bargaining table. To me that is a management prerogative, and it is not within my jurisdiction to tell the commissioner how to run his department.

Paul Fraylick: I am with the National Conference of Christians and Jews in Louisville. I'm afraid in our discussion that we have talked so much about deadly force that we lost the thread also about excessive force.

That is a much more difficult thing to deal with, much more subtle, and may be correlated in relationship to the deadly force things. So I would just like to not have that lost in the things we're talking about. It is related to what happens in the deadly force issue.

Morrone: I respect your role. The fact is that you are always on the other side as far as labor-management kinds of issues are concerned. I would suggest that if a member of your union is being brought up on charges for having used excessive force or having used his weapon contrary to the rules, that you will provide him with counsel all the way through the process, that you will appeal the process to mediation, an arbitration board if one exists in New York City. It does in Connecticut. The police officer, in those kinds of situations, reacts very much like a criminal accused of a crime in that he goes and gets himself the best counsel and looks for every loophole in the law, in the rules of the department, in order to get around that.

We do have different roles, and please don't misunderstand me. I respect yours. I just think that we are at odds on this particular issue, maybe a little different in philosophy along those lines.

We have a situation in Connecticut where the statute is very, very broad. It says you can shoot a fleeing felon, no question about it. So if I fire a cop for using a firearm in violation of my department policy, I'd say there's a 75-25 percent chance that a labor board, mediation and arbitration, can overturn that.

They can say, "You know, you got a state law here that says he can kill that guy. And yet, chief, you're firing the guy for something that he did that was a perfectly legal act." And that would be your defense if you were presenting one of your men.

There are appeal processes, and cops get a good attorney just like the crooks do.

Rev. Kyle: One problem in Memphis is that we not only have to deal continually with the police association, but also with the city civil service commission. It almost always overrules the chief. And, if civil service doesn't, then the mayor will.

The other thing is the news media. I was going to invite in general managers of radio, television and newspapers, because they really set the climate and the atmosphere of the community.

If the shooting takes place, the media will give the police report as the actual happening and very seldom will they go and talk with the victim or talk with the victim's family, unless it is just some case that is way out.

So the larger community always feels that these people got just what they deserved. You wouldn't even think we were living in the same community because the news media fail to present both sides of the situation.

Group D

Facilitator: I think that the concern expressed this morning by the various speakers was what we might do as community people, in the global sense, in working with the various law enforcement agencies.

What I hope we get out of this group today are some imaginative recommendations. We are aware that many of the problems which confront minority and law enforcement people have been around for years. Let's start with the problem that many law enforcement agencies see in attempting to work with communities. As one of the speakers said today, we seem to be talking at each other; we seem to have a wealth of concerns that are expressed but never really gotten into in depth. Maybe this is where we might take off.

Richard Maes: I'm Wyoming State Director for LULAC, and my background is in journalism. I think something that affects both of us as minorities and as citizens, and which has been overlooked in this conference, is the impact of press. Having worked on a major metropolitan newspaper, I know how minority killings, et cetera, are treated. If you are black, they are cheap shootings; the same if you are a Chicano. If you happen to be a rich person over in one of the wealthier areas, it is news and generates several articles.

Also, the reporters who cover the police beat in the police stations are rookies; they are beginners and they don't know what the hell they are doing. They have a tough time; they make friends with the policemen in order to get a story. That is where you begin.

I think that we should challenge the editors, especially city editors and assignment editors on TV stations. They are going to have to do away with this racist attitude. I think that should be pointed out, and I think that newspaper editors and TV personalities around the country should be challenged with that. As a whole, newspaper people are intrinsically lazy. They don't like to get out and dig for stories. If somebody gets killed, I think it deserves a much deeper look than just as a cheap shooting of some "nigger."

Martha Rodetsky: I am from Denver, a member of the board of ACLU, and a member of many groups that have tried to make changes in the police department.

I think that communications are really bad between all groups. Also, I notice that we have never really delineated what we mean by shooting policies or, as a matter of fact, the use of deadly force.

A police officer or anybody who is encountering deadly force has nothing to go by if there is not well-delineated policy to refer to and which everyone understands. I think, therefore, that a national policy that could be adopted by every police department in the country would be a very good step to take.

I might say that I think the community should be in on the preparation of that policy and delineation. I don't think it should be the police department or a law enforcement department entirely; I think there should be community groups as well.

Ray Rickman: I'm the director of a community relations program for the City of Providence, Rhode Island.

We brought today a seven-page report on how we have been trying to get a firearms policy in our city. Police officers in about 48 states are basically free to shoot anyone who is a fleeing felon; the law is wide open. Whatever happens in a local municipality generally has little influence because of the state law.

The law, as defined, is too broad. I know that police chiefs in this country agree with this statement, but then you come down to the problem of what happens in the local municipality when someone is shot and it is a questionable shooting, and can we say under what conditions can you shoot people.

The police, as a rule—and I have studied about 15 cities, including some you have heard about this morning—the police say that this is a matter for them to decide; that police policy on firearms shall be decided by them.

In Providence, we went to the police and said, "Why don't you create guidelines?" They said, "No, this is none of your business." We said, "Well, we had these questionable shootings." Then we took the matter to the city council.

Now, we have a success story in that the police department told the city council that it was none of their business, too. We have a public hearing next Tuesday. I don't know if we are being totally candid with ourselves if we don't look at the major problem, and that is the fleeing felon law that permits police officers to shoot almost anybody they want to.

One final thing: this morning, I was very impressed with one thing Vernon Jordan said. We have gotten ourselves in a bind; the police accuse us of being anti-cop when we are pro-human life. So, when they yell and scream loud enough, we find ourselves backing down in a corner and talking about the few bad cops.

This is not a few bad cops; they are the ones who kill people or shoot people. It is the administrators and the middle management that refuse to change the conditions.

Charles Allen: I am the Director of Public Safety in Plainfield, New Jersey. There is a more basic thing that we have to look at that will probably answer many of the questions and that is, What is to be the role of a police officer in today's society?

When we begin to analyze the role of a police officer and how the police agency fits in with the governmental operation of a state or city, then we will begin to answer many of the questions that have come to the fore about who is responsible for establishing what policy and who has to address what.

Just what is the role of a police officer? Why do we have police officers? What is expected of them, and in the pure sense of the word, not the regional or local kind of thing? Start way back and see why police agencies were created, what is their function, and hold them accountable. Answers to those questions, I think, would end much of the discussion that is centered around the use of deadly force.

Bob Warren: I'm with the Ogden, Utah, police department. It seems to me that as far as the law on deadly force is concerned the place to start to keep police from shooting a fleeing

felon in the back--and it does happen around the country, occasionally--is to make it against the law, rather than a policy.

Let's take it to the state legislature. I would think that it would be easier to write a shooting policy if the law were more restrictive itself. This is what we should try to do in every state.

Jim Britton: I'm a U.S. attorney in North Dakota. It seems to me that so often, whenever we confront a problem, we say there should be a law, and we have abandoned the use of good common sense and good judgment in settling these differences and figuring out how to live together.

In a lot of situations, we end up creating more problems than we solve. In this particular area, it just seems as though there are goint to be situations which, when we are writing this hypothetical law, we are going to want to say, "Well, we really should shoot in that case."

I think what we are saying is that we have got to get well-trained policemen and intelligent policemen, and put them on the job, give them latitude to make discretionary decisions under policy guidelines that are well understood.

Ronald Hampton: I am President of the Washington, D.C., Chapter of the National Black Police Officers Association.

It is against my law to shoot a person in the back, whether he is a fleeing felon or not, so I don't think we have to make a law.

Police systems have had progressive administrators for the last 10 years, and they move in progressive areas that law enforcement has never been in. They only change certain entities within the police department, but the system still rejects change. And until those so-called progressive administrators are willing to change what policing is in America, then police systems will continue to be very oppressive in nature.

Lee Reynolds: I spent about 21 years in a police department. I was in the department when they formulated one of initial fire and discharge review boards. It first started when I was there and we helped set the guidelines.

I agree with the gentleman here that you can't legislate this, because it is very emotional. It is a very unpopular thing for a police administrator to try to restrict the use of firearms, because it seems as if the unions feel that these police officers are somehow being disarmed, restricted or inhibited.

But as far as serving the public, it is a necessary thing to do. There have to be strict guidelines coming from the administration saying when not to take out your revolver and when you can discharge it. On every discharge, a full report and investigation should ensue to insure that the weapon was drawn, first, for a good reason; secondly, that it was discharged for a very, very good reason.

The penalties need not be very strict; they should be according to what happened. The officer could be retrained. In some cases he could be sent back to the firing range. Or, in the worst case, perhaps termination or a psychological examination would be in order. But it has to come from management itself.

Mamie Garcia: I look at this from a citizen's point of view. You have to account for everytime a police officer unbuttons his gun holster, and you have to account for every shooting.

The policeman uses his judgment and he shoots a person when he is in danger or his partner is in danger or citizens are in danger, and then a Grand Jury investigation comes. So I feel that the policeman is in the middle, and I hear comments of police officers saying that a police officer loses his rights when he serves the citizens of Houston, where I am from.

Some officers say, "Well, what is the use of us having guns? When we use them we get investigated?" You know, there is a two-way thing there and they don't know which way to go. We are talking about changing laws, and pretty soon we are going to be in the middle and we are going to be having police officers killed.

I have been in the department for a year. The incidents that have happened are accounted for, and we feel that as long as we know what we are doing and we use our best judgment, we have to live with the decision that we make. Whether we shoot a person as he was fleeing, or a burglar, or if your life was in danger, it is a decision that is being made by the police officers.

I was educated through the department in my own special way; nobody has dictated to me or told me, "This is the way we do it." I listen to the citizens' views and I listen to the police officers' views. I see that the police have to answer for all this, but they feel that they don't have to answer if they are using the best of their knowledge.

Some offenders have gotten away without being shot, or officers have gotten wounded by those offenders.

Rickman: I want to disagree with the police chief. What we are interested in in Providence is that officers get guidance because they are no better or no worse than a lawyer or a banker or anyone else.

What is wrong in our city is that no one will give police officers any guidance on when they should shoot and when they shouldn't shoot. I don't believe in Monday morning quarterbacking. I think that being a cop is a tough job, particularly in middle-sized and big cities.

I think it is wrong to put a cop on trial every single time there is anything. But if a pattern exists, then somebody--whether state or city government or the police chief--needs to say: "These are the rules; follow them. If you don't, you will be fired or are going to be in trouble criminally."

Allen: I refuse to separate the police from the people. It is not "we-them"; it is all of us together. As a police administrator, and having been a policeman for some 26 years myself, I have no problems with performing consistent with the will of the people that determined that they wanted a police agency. I submit to the will of the people.

I have no problem with the people developing a set of guidelines by which we, the police, will live. I go a step further. In my agency, I have made it clear that these are the rules regarding the use of force; there are the ones that have been approved by the duly-elected officials. I have no problem saying: "I have a responsibility to make you understand what the rules are; now you have to make a decision. If you feel that these rules are handcuffing you or inhibiting you in the performance of what you perceive to be your duty, then I heartily recommend that you seek employment elsewhere, because the guidelines that have been established are guidelines which you feel you cannot abide by."

So I have no problem with the overall community establishing the policy regarding the use of force.

Facilitator: Does this include the police association?

Allen: The police association is representative of the policy agency, which is a part of our community, and they, too, fall under the umbrella. I don't mean to suggest that it is easy. I have daily "conversations" with the police unions.

We have got to cut out the foolishness and the rhetoric. We have to say, "There are the rules and this is the standard to which you are going to be held; you know that when you sign on board. No one was drafted; we all volunteered. We are all in this thing together. These are the guidelines under which we will live. They are, hopefully, responsible guidelines."

We don't mean to be loose about this, but make certain that they understand this when they sign on board, and we all live by it. When there is an infraction, we will measure that performance based on the guidelines with which they were familiar when they signed on board. It is not as difficult as I think some agencies or some people are attempting to make it.

We allow for that split-second, critical-decision moment.

Warren: I'm not against policies; I didn't want my colleagues to think that I am. We should have policies, but I submit to you that we cannot, as has been said, bring criminal action against a police officer unless he is violating the law.

You may be able to fire him, but that is as far as you can go, unless he has violated some federal or state statute. If there is no law, you can say, "I think you used bad judgment and you are fired." But how are you going to bring criminal action against him if he has not violated the law?

Facilitator: That is assuming that the law in Utah is so broad that he can shoot anyone.

Warren: I believe someone said something to that effect that the law is so broad that you can shoot a fleeing felon in almost any state in the union, and you haven't violated the law.

Cynthia Sulton: I'm with the Police Foundation. My comment is on what the gentleman from Providence said about policies. It is one thing to have laws and then have policies, but it is quite another thing to hold people accountable.

If you have a policy that isn't properly articulated and people are not held accountable to it, then there is really no use in having it. There was a study, one, I think, in Los Angeles County, of the police departments. They asked police officers what they felt the policy of the department was, and also asked police managers what the policy was. There was a great disparity between the two within the same department.

One consistency was that when officers were offered examples of situations and asked how they would respond, they responded consistently to the policy that they thought was in operation, but it was not the same policy that the chief articulated. Something, I would venture to say, is wrong with the way the policy is being enforced, and I would think that that is probably prevalent.

The only other thing that came out of this study that was particularly important was that there was a direct relationship between the position of the chief, generally, not his policies, but just his personal vigor about the issue, and the degree to which restrictive behavior was occurring.

Facilitator: We talk of accountability and of making sure that the officers know what the policy is and that it is followed, and then of one group having a certain understanding of it and another group having another. Then comes the role of the police association.

Sulton: I think that is truly a problem. But it is probably exacerbated in a situation where there is no existing mechanism to hold people accountable, where they are not negatively sanctioned when they just begin to violate a policy, much less kill someone.

Rodetsky: Last year, in Denver, we tried to change our city charter so that the civilians could help write policy and, also, to select a chief of police, instead of having him come from within the ranks.

We also had lateral entry, another thing that no police department will have anything to do with. This gets to the Police Protective Association, which is national and which did say it would put out $150,000 to work against this, using the media, particularly TV all over the country, if we pursued what we wanted to do.

It brought out the fact that it was a "we-they" situation with the police calling us civilians. I think we have a confrontation going between the "we-they" thing, between the civilians and what they would refer to as professionalism of the departments.

We will never begin to talk if we don't believe that all belong to the same society and that we all have the same objectives. I think it is a hard question to answer, but if we can get to a closer understanding of each other and our objectives, I think a step will come through.

Reynolds: One way of getting a safe firearms discharge policy in line is the escalating liability insurance that most municipalities are facing. Once insurance companies know there is some kind of mechanism in place, it is like having an automobile with an anti-theft device in it; your rates get considerably lower.

After these incidents happen, with publicity attending them, most municipalities will find their rates skyrocketing. If citizens were to look at the liability rates the municipality, or state or county, is paying and realize that they will be paying for material losses for years to come, at escalating rates, they will have more of a vested interest.

Paul Fenton: I'm the Chief of Police in Springfield, Massachusetts. My friend from Providence tells me that there are no regulations there and no policies on gun regulations. This is hard to believe in a progressive city. I have been there many times, and I am impressed with the police department. I knew a former chief there, and it is hard to believe that they have no regulations whatsoever.

One other statement was made that I would like to tag you for, and that is that a policeman can shoot at anybody. A policeman cannot shoot at anybody. A felony is a very serious crime. One captain mentioned a minor burglary. There is no such thing as a minor burglary; burglary is a very serious crime.

Today, they are breaking into houses and assaulting and killing people. These are things the police officer shoots for, not the kid running down the street, as it is often said, with a loaf of bread.

The thing is, if you have it on the books and you are going to get if off, you had better think, because there are some bad, bad people in our neighborhoods today, vicious people. I had one last week where a woman got tied to a tree, assaulted and raped. If this guy is running away, he is a fleeing felon. A few years ago, a woman got her legs and arms cut off and thrown in the tub, her head was cut off and thrown in the sink. This guy, when he is escaping with a knife, is a fleeing felon. You are telling me that a police officer can't shoot at people like that? You had better think before you change it (the firearms policy).

My city changed it, and I argued against it. I have some progressive police commissioners who are good, sincere people. I go along with them; I don't win all the battles. But these are some of the arguments that you have to accept. You had better look into Providence again.

Rickman: This is really a case story, and I would like to share it with you. Chief, I'll send you a report I just finished. Between 1970 and 1979, the police in Providence shot 13 people, 6 of whom died. I would like to tell you about those six people very quickly.

One was white, 32; husband made $35,000 a year, a lawyer. They shot her in the face in the process of brutalizing him, unarmed. I won't go through all six, but I want you to know that of the six dead, only one person had a weapon, and that was a knife—a silver dagger, as a matter of fact. This particular case involved two gay men; one killed the other one and the police came on the scene and shot him dead. This was the only one of the six that involved a weapon of any kind.

I want to run through the other five. One was a very upper middle-class white woman, minding her own business sitting in a car. Another case involved a 15-year-old black girl minding her own business; she was at the scene of a fight and was shot in the face for yelling and screaming at the cops.

Another case was a famous case; Chase Connors, a black man, stealing a television set during the blizzard. The police shot him in the back and let him bleed to death. The police officer was indicted and found guilty and given a deferred sentence, no time in jail. This is the only case in Providence in 22 years where the officer was found guilty; there were 37 witnesses.

In Providence, we have a record of shooting not at desperados with guns; the police are pretty good at not having shootouts with people who are shooting back.

I am in favor of cops protecting themselves; no officer ought let anybody brutalize them. But I am not in favor of them shooting an unarmed person in the back.

I will send that case study to anybody. Neither our chief nor anyone else has been able to refute the facts.

Maes: Let me be just a little more pragmatic about that. If we really look at it, it goes back to the old feudal system, to the idea that to take care of us because there are some people out there who want to take things or do things to us that we don't like.

But, gentlemen, you are civil servants. You are going to have to change your policies; you are going to have to get input from the community. You are going to have to do it, and if we have to drag you, kicking and screaming into the 20th century, so be it.

You are going to have to redo your thinking; you are going to have to say, "Well, it's inevitable; we are going to have to do it, and the only thing we need from you is cooperation while we're doing it." We are going to have our input. You are going to have to listen to us for your guidelines.

I'm sorry; you are not in charge. We are; we pay the taxes; we do your budgets. We don't want any of you to be harmed, but you are going to have to change your policies. It is as simple as that; it is inevitable.

Hampton: I disagree with the chief. As a police officer for 10 years myself, if I come on a scene where a man has just killed a person who was fleeing I can't shoot him in the back because he didn't constitute a danger to me.

I feel like I have done my job if I catch the suspect. If I have a confrontation with him where he poses a danger to me, I will use my gun. I'm going to protect my life and whoever else is there.

We had a case in Washington several months ago where a gentlemen was selling drugs. The police officer saw that the man was selling drugs, pursued him; he ran. The man also had a gun; the police officer shot him in the back, thereby paralyzing him. He went to court and he was found guilty of possession of the gun and possession of dangerous drugs. But later, the man took the police officer to court for shooting him in the back when he never represented a threat to the officer.

The man was awarded some $100,000. Now I have a problem with the police system in Washington not punishing the officer for shooting the man. You know, you just can't go around shooting someone because you think that they are a danger. If he was a citizen, then he would have gone to jail. I think the police officer should go to jail for shooting the man.

You know, that is my thing here; we can't go around shooting people, regardless of whether we have the power, the badge and the gun. We can't go around shooting people because we think they are a danger. There are laws on the book now, but the police department enforces the law very selectively; not against themselves, of course. I have been a police officer myself for 10 years. We break the law, but we don't prosecute ourselves.

Britton: It is probably inevitable that in a discussion like this we start talking about who is going to win. What we are really talking about is what society is going to end up like, as opposed to who is going to win. I think that we can talk in that context.

Take two situations where everything is identical, except that one of the people who used deadly force is a police officer in the line of duty, and the other individual is a private citizen. All the other factors are the same.

I don't think it is really out of line, when it comes to judging the criminality involved in those two individuals' actions. We give the individual, who is a peace officer, some special protection over and above what the private citizen has.

That is not to say we should give the police officer license to use deadly force as he pleases: I don't think we have that situation here. Unfortunately, in too many cases, we do have officers who have license, to a degree, to use deadly force. And they don't have parameters set or means to make the judgments that are required.

It is a difficult crime to prosecute, using the existing law. But we can still prosecute murder by a policeman when they have, in fact, committed it. We can prosecute crimes committed by policemen with present laws, and the fact that they are difficult to prosecute shouldn't be changed by putting the policeman in the same situation as a private citizen. Society will have taken a step backwards if we do that.

Reynolds: "Felony" has a very broad connotation. At one time in New York State, if you took something that cost $99.99, it was a misdemeanor. Soon as that item became $100, it became a felony. Much of the fleeing felon shootings are over property; and not so much a threat to human life. Do these persons who are fleeing create a clear and present danger to me or to someone around me?

It is not necessary to use a firearm to apprehend someone who is fleeing. You can use your powers of observation and get a detailed description, you will apprehend them later, if you are any kind of a police department.

Most felonies are not crimes against a person; most felonies are crimes against property.

Howard Saffold: I am also from the National Black Police Association. I am wondering, in terms of the objective of this discussion, whether or not we are trying to address the issue of too many people being killed by the police, or to address the issue of what effect the killing has on a total community when there is doubt as to whether or not the officer was, in fact, justified?

Are you trying to develop methods of conducting thorough investigations so that citizens who have a question could be enlightened through facts that were gathered by an objective agency, if you will? I come from Chicago and it is not uncommon there for a police officer to shoot a citizen. There have been instances of the suicide syndrome, where a guy just screams and hollers with a broken bottle and goes after two guys with big guns.

You begin to wonder, especially when you work with different officers, and you know they have problems, whether or not anybody is concerned about and are able to separate that from the normal, day-to-day dangers that a police officer is confronted with.

When you have an agency set up where the immediate investigation takes place—when the word comes out that there has been a shooting, the brass comes to the scene and pulls these two guys into a room, and before they come before the public sight, their story is straight, and everything they needed to justify the act is there.

The state's attorney's office doesn't want to prosecute; the police department doesn't want to prepare a case for prosecution, and people are still up in the air. It is hard to determine what is a legitimate killing and what isn't. As long as we talk in terms of trying to describe it by some statute, I think we are overlooking a vary basic, fundamental question in the minds of the public: Is there, in fact, a mechanism by which acts of officers using deadly force can satisfy the concerns of the general public?

I hate to think that a white officer working with me in a black area has to be considered as an immediate danger because there is a fool running around that looks like him killing people. By the same token, if the traditional mode is to develop an attitude of indifference or one of defense because somebody accuses you of killing somebody unjustifiably, then you have got a problem.

Again, my whole point is that the public at this point doesn't have any idea of what a thorough investigation of a police killing is about. Nobody has bothered to tell them, either. The last time an independent agency in Chicago investigated a killing where a police officer shot a man, left him in the street, and drove away, citizens came out and called additional police officers, and this same guy came back, got his cap, and drove away.

The officer of professional standards, who had responsibility for conducting the investigation, had it taken out of his hands by the chief. Do you understand?

I am saying that those kinds of elements of doubt are what we are dealing with now as an agency, not necessarily the racism that we get into when we have candid discussions like this. I know there are some "nigger-hating" police in Chicago and all over the country, and I know that on numerous occasions, my organization has filed complaints based on having a stream of witnesses. Nobody wants to prepare the case. The federal government says, "We'll turn it over to the FBI." The FBI says, "Well, we have to depend on the local agency for too many other things, so we can't really overdo their investigation."

By the time it gets down to the bottom line, my buddy is investigation the shooting. If you took reports from officers immediately on the scene, you will find many discrepancies in the story of the partner and the guy who did the shooting. We have seen it on numerous occasions.

So I don't know whether methods of developing independent investigative agencies will come out of this. It is a touchy situation; a thin-line, split-second decision. We all know about how Kojak and those people handle those kinds of situations. In most of these shootings that we're talking about, there is always time to think about it. It is not so much a question of, "Can I shoot." I think police officers at some point are going to have to develop an attitude of, "Should I shoot?" not "Can I shoot?" "can" meaning is it justified, and "should" meaning morally correct.

Maes: I have seen investigations like the one talked about. In Denver, a man was shot in the back because he was going inside his coat for a gun. The gun was found four blocks away. By the time the brass got to the guy who did the shooting, took him back into one of the vans. When they came out of there about 45 minutes later, it looked like somebody had xeroxed 15 copies of one report. They got their stories straight; they got it together so that they could come out and justify that.

Do you want the police policing the police? I don't know.

Sulton: I had a comment about the differences between a citizen's shooting and a policeman's shooting. A policeman has been given a sacred trust, and when he shoots someone, he does two things. He violates a moral and civil law about killing people, but he or she also violates a sacred trust.

Therefore, I believe they probably should be treated differently. They have been given special training, special direction, and have a special mandate. I don't think we should overlook that. The sad thing is that we can get monetary, punitive damages for someone that has been killed. But we can't get them to indict on criminal charges in the same incident. There is something in our psyche that keeps us from believing that people who have that sacred trust would violate it. So grand juries don't indict and coroners don't write good reports.

Rickman: I am always shocked to hear a police officer or a prosecutor or anyone else say anything like that. I know people believe that an officer ought to be even just a little bit separate and above the law.

The average cop out in the street has more power than the President because he can blow you away. The President can't; he has got to enlist in a war, or something, to do that.

I don't think we ought to handle this thing lightly. Police shooting people is not a light matter. Kenneth Clark says that one police officer in one questionable shooting can sour an entire community for a whole generation, and I don't think we ought to play lightly on this.

You know, when I was a kid, I thought cops were the greatest people in the world; I really did. I'm only 30 years old, and now I think that most cops aren't worth a damn, not because they go around shooting people; 99 cops out of 100 in Providence wouldn't shoot you or me if we had a gun pointed at them.

It is the other one that is causing great disturbance and turmoil. The chiefs know it, the cops know it, the middle management knows it, and we're not doing anything about it. We have a tremendous problem. Some of it is absolute truth and some of it is what people feel, and we need to address both of those.

Britton: If some of the things I said are interpreted as saying that the policeman should be above the law, that is a totally inaccurate. What I said was that the law should give special status, and it should protect the status of the policeman. It should be different than the status of a private citizen.

I think that strong policies hopefully will identify that one bad policeman out of 100, or whatever the ratio is, before he has had a chance to sour the whole group.

What I am saying is that we just can't, for the sake of a problem of one or two people out of 100, go and kick all of the policemen out in the street, unprotected by any special status. I think the system requires that we give the policeman special status under the law; not that they are above the law, but special status under the law so that their actions will still be looked upon and will still be governed by these legal parameters.

The things that we have been talking about are matters that have to be handled administratively. Hopefully we can come up with aggressive and good internal policies within neighborhoods, and it probably doesn't have to be totally administered by the police chief. I'm not saying what sort of mechanism should be established. But I'm saying that we have to administratively take care of the bad apples before they do something wrong. After they have done something bad, if it is criminal, we'll still prosecute them, but it is good to be more difficult to do so.

Saffold: A quick statement. Most police officers I know, and I know quite a few, could stand up and face you and the rest of the world when they have done something in the line of duty, without fencing and without having to be protected, or even feel that they need to be protected.

The liars, the cheats, and the snakes need the overall protection. I think that when we get down to basics, all police officers would rather see a method by which the guilty become charged and the innocent gain the confidence and the support of the public.

It just so happens that that built-in camaraderie that keeps us from going against the grain by being honest when one of our own has goofed or intentionally stepped outside the bounds of the law—I think that that traditional mode has locked us into a position of apathy and indifference. At some point, I think the public is going to have to snatch us out of it, because we are overly protective in terms of it.

Feedback From Small-Group Discussions

Moderator: Dr. Gary Mendez

Mendez: We would like to hear from the different groups their response to the questions that were asked to see if we can get some kind of discussion, if that's possible with so many people. After the four recorders present the information, anybody who wants to comment or ask a question should go to one of the microphones. (At this point the recorders summarized for the plenary session the discussions which had taken place in their respective groups.)

One thing that you should be aware of is that everybody does not see police use of excessive force as a race issue. I haven't heard that mentioned yet, and I never mentioned it; but I know that everyone does not agree that's what it is. So I hope that some opinions of what the problem is are raised so that we can deal with those. You've heard mentioned the bad apple theory that says there are a few bad police officers, and that if we could eliminate those, then we'd solve the problem. You've heard people talk about the problem as a training issue. If we were able to somehow improve our training techniques, that would solve the problem. You've heard the race argument. There is the argument that it's a police culture type thing. Once you become a police officer, you think a certain way and you act a certain way. Then there are people who say, "The reason why there's so many minorities being shot is they commit crime. So, it's only natural they should get shot." So, I think you should include those things in our discussion. Otherwise everybody is going to agree, "Yes, it's a terrible problem," and we're all going to leave and go home and leave it right where it is instead of bringing out what we really think are some of the problems to be dealt with.

Norman R. Seay: It seems to me the Attorney General needs to know some of our recommendations. Is there a possibility of appointing, or a group of people volunteering, to serve as a resolution committee to get these recommendations to the Attorney General?

Mendez: This is being recorded, and he will have a copy of the proceedings. But you may want to go beyond that.

Triplett: There is a task force that was created in the Department of Justice by the Attorney General to deal with this issue. The Community Relations Service is a part of the Department of Justice. So, therefore, not only will the Attorney General get a copy of this, the task force will also. And I believe that Assistant Attorney General Drew Days has the lead on that task force.

Seay: I really don't want to get into a big discussion about it. But that's part of the end group. You're part of the persons who planned the program. I was wondering if the persons who are not part of either of the three could be on such a committee to make recommendations. Then it would be coming from the masses, from the participants, from the conferees rather than from the planners of the conference, with all due respect to you and your distinguished contributions.

Spuriel White: I support the idea of having some very specific resolutions coming from this group. Perhaps a vehicle for doing that would be to appoint someone from the various task forces who could take information and make some recommendations prior to the end of this conference for the entire body to react to, and we can shape a final opinion about what needs to be done. (See page 126)

Roscoe Nix: As I understand Mr. Seay's concern, he wants it to be broader than the sponsoring organizations per se. And certainly from the standpoint of the Community Relations Service, there would be no objection. What we'd do is try to facilitate this rather than to say what is going to come out of it. The extent to which there is that exterior representation, that's okay with us. It seems that the steering committee is going to be represented on this group. And, certainly, it should also have a representative group of law enforcement officers.

John P. De La Cruz: My name is John P. de la Cruz. I'm chief of police in Devine, Texas. In listening to some of the suggestions that were made about training for police officers, I personally agree with it. I think that the more training an officer has, the better he can do his job. But I think the public also ought to have—can't really call it training, but some sort of education maybe to work in harmony with police departments.

Gleason Glover: The training and the other things we've talked about, for 10 years we've tried to influence the training aspect, and we still have not seen the kind of results that we thought would take place.

I feel that the answer to the problem goes beyond the training aspects. I think you've got to have a control factor there that would weed out or at least put some controls over police officers who tend to continue to behave in the way they do on the job. And so the thing that I would suggest is something that we've started up in Minnesota. It's called the POST Board (Police Officer State Training Board), which is appointed by the governor. It's a licensing arm of the State of Minnesota. Every two years police officers go up for licensing, and they have to meet certain requirements. Anything on their record, such as brutality cases or undue force, is brought up. And they can lose their license on that basis. I think these kinds of control factors have to be impacted if we're really going to see a change, the reality of it is that, because of the racism involved, training is going to change attitudes. Things like licensing of police officers can at least begin to minimize the problem to the extent that it makes you think about it before you do it because your job is at stake.

Victor Sanchez: To my knowledge, there is no federal standard for police officer training in the United States. I know California has POST (Police Officer Standards and Training), which all police officers in the State have to go through before they can get a basic certificate to go on the street.

The thing with licensing has come up in Congress before and in different legislatures. That has always been shot down because of the fact that a lot of people are worried about a police state, which is very possible, if you start licensing different police officers and different agencies. I think you have to get back to the training issue. If you establish federal guidelines requiring, say, at least 500 hours of training for each police officer in various fields, that should be at least a beginning. Guidelines should also be set up for your education. If people are not educated on different police forces, they're going to have that much less qualified personnel.

I don't foresee that it's going to come out in the near future, but I do think that we as participants should make that one of the big issues. If we're going to train them, train them in a standardized fashion in cultural awareness, in excessive use of firearms, excessive use of force. Your attitudinal changes which will follow, once you establish a certain degree of standardization.

Mariana Cordovegas: I agree that training is needed. But the word "training" reminds me of the German shepherds they use in the police force. I think one of the things I would like to see is perhaps having their minds conditioned to just the use of common courtesy and common sense.

Also, we need to, at an early age, condition our children to respect law. We don't want to say that we don't want justice and that we don't want law enforcement. We all need law enforcement, and we definitely all need justice. The only thing that we don't need in this country is a triple standard of justice. I used to say double until I came to Washington. Over here, the majority, the pigmentation is a little bit different than mine. But nonetheless the law still sees that.

Maybe we should all wear blindfolds. I really believe that common sense, common respect—and it's going to boil down to the fact that we are raising our children, and we need to condition the minds. And the minds of police officers shouldn't have to be, "Wow, let's become police officers because the pay is good."

I've sat on oral boards. And it really saddens me when they tell me why they want to be officers. Sometimes I feel like telling them, "Gee, you shouldn't have even bothered because the money shouldn't be the only thing." The employment situation is bad in our country. Perhaps we should stop shipping our jobs to other countries just because the work is done cheaper. When they do that, it hurts us. We begin to have rising racial tension. Busy people are able to work and earn money to get the things that they want. We as Chicanos, we as Hispanics and blacks, we don't want to use a gun and go and rob a liquor store or whatever, to feed our children. We want to work. We want to have just the same opportunity as everybody else.

And so I say, if you do know of anyone who really wants to be a police officer, then have him be by all means. But he should keep in mind that the gun is there specifically for excessive force because many times most of the people who are killed either have a toy gun or no gun at all.

Triplett: With respect to licensing of police officers, LEAA just awarded a grant, several grants, about a month or so ago to the National Sheriffs Association, IACP, Police Executive Research Forum, and National Organization of Black Law Enforcement Executives to develop police standards and accreditation. They will be dealing with the various aspects of police work. Some of the grants' recipients are in this audience. They may want to elaborate.

Hanif Khalil: I am the co-chairperson of the Police-Community Relations Task Force, Kansas City, Missouri, which is one of the task forces of the Ad Hoc Group of Community Leaders and Representatives against Violent Crimes in the Afro-American Community, which was more or less brought about in what I called a shotgun wedding back in November, 1977. We have members in our group from city government, federal government and the police.

We have found that, through community support we have been very, very effective in making changes in the Kansas City Police Department. Colonel Leroy Swift, when we started, was not a colonel. The chief of police at the time we formed our group is no longer the police chief. And, as a result of that wedding, we have produced some very beautiful children. When I say that, the children, citizens, have come forward because they felt like working together as a unit. This is something we have never done before.

I'm from the Islamic community in Kansas City. And, historically, we didn't have the Islamic community working with the Baptist community or the Methodist community or the Catholic community. But as a result of the formation of this group, we have crossed religious barriers. We have crossed political party barriers. And it has been very, very successful. I have some information here, if anyone wishes to have a copy of it, on our second annual program. We have a brief history of the Ad Hoc Group. As a matter of fact, Mr. Roach Brown, from the Inner Voices in Washington, D.C., was our main speaker last June.

But, again, what we need is a cross-section of people to come and work together. We have had impact on changing the proportion of officers in the department so that they are equal to the proportions of the city. We have had impact on the academy, how the officers are trained. We have had impact on the police commissioner, the board of commissioners, the governing body of the police force. What we're saying is that this has worked in Kansas City.

One other thing. In Kansas City, the police department has what is called the officers' or citizens' complaints. I don't know how many other cities have that. But we've even impressed on the police chief that if an officer's name appears on one of these complaints more than, I think it's three or four times, he is called in. First he is reprimanded. If he is called in again, then he is considered for dismissal from the department. All this was brought about just as a result of community people coming together.

Hector Soto: In addition to being Regional Attorney for the U.S. Commission on Civil Rights in New York City, I'm also a member of the Coalition in Defense of Puerto Rican and Hispanic Rights. And it's as a representative of the latter that I'd like to make the following statement. Much of what has been said today has been about things that are going to require a lot

of continued effort. I do not assume that because these things are talked about that the situation with regards to police brutality, the excessive use of force by the police, is going to change tomorrow or on Thursday or on Friday. As an attorney for this latter organization that I mentioned, we get every week two or three calls from people with allegations of police brutality. I get to see people who have been physically abused. I've been to hospitals, and I've seen people in comas with gunshots in the back of the head. I'm not saying that to create any kind of effect. It's just a reality. And one of the things we end up having to deal with is, what do you do with this type of person? On top of the fact that they have been physically abused, most times in New York City, the person, even if completely innocent, finds himself with some sort of outrageous criminal charges against him.

I know of one five-member family, none with any prior record, all of them working or in school, a typical American family, that got involved with a police officer in a minor traffic accident on the Triboro Bridge. Those people were charged with attempted murder. Just the fact that they are being charged with that is intimidation. Whether or not it gets kicked out later on, these folks are being intimidated into keeping quiet or doing nothing. And on top of that they were physically abused by a number of police officers who showed up at the scene.

So, the point that was made before, and I think is very well taken, is that, at the community level, we do have a responsibility to do something.

We are in the process of establishing hotlines for people to call up and find out what is happening. We are getting names of attorneys who are on 24-hour notice to go down to precincts, check up on people, find out what's going on, follow through on the criminal charges, then go into the civil rights action from which, civilian complaints against the police can flow. Police departments do respond to local pressure. I'm not advocating that everybody should storm their local headquarters. But I do think that if there has been an outrageous incidence of police brutality in your neighborhood, that there has to be a mobilization of the local community around the issue. People have to know that this is going on and that they can stand up and fight back. Demonstrations in front of precincts do have some value, you know, forcing meetings with captains or high officials and not the community relations people because the community relations people are trained to deal with you. And it's their job to go out there and take a lot of flak, and that's not taking away from some of them who do some very nice things, and I know a lot of them in New York City. But I think you should call for the captain or whoever the top man is and get him to come out to you in a meeting and let him stand in front of a crowd of community people and hear what people are feeling.

So, I think at a very local level we have something to do almost right away. And I think we should also think about that while we're here, that the long-range plans are nice; but the short-range plans are the things that we have to deal with when we go back to our local community.

Dr. Peter Scharf: I'm from the University of California. I'm very concerned that the tone of the meeting has turned off some of the best elements in the law enforcement community. I think one thing that's good about this meeting is that the problem is right here in the room. We have represented here, I think, some of the most progressive folks in the law enforcement. And I think just talking to folks in the corridor and also looking at who is not here, I'm concerned we're turning them off. And I'm also concerned because I think the goal of all of us here is to reduce wrongful deaths and the sum of violence in society. But I think the way that has to happen is through some kind of active collaboration which takes into account the perspective of the guy in the street, the perspective of a person running a police agency.

We had a comment of a police colleague of ours at the Irvine meeting, and he said something I thought was very beautiful. He said, "Don't let anyone ever believe anything but that the vast majority, the very vast majority, of police officers value human life." And he said that very beautifully. He said, "I don't want anybody to think anything else." It has been my experience, 10 years experience, that that's absolutely true, that the policeman on the street values human life, values human personality as much as anybody else in the society.

And I think a rhetorical response to this problem can create a defensiveness by ignoring the kinds of problems of the guy in the street, a guy faced with risk, risk of his own death, faced with the risk of other citizens; he has to make a split decision, four seconds, five seconds, make a decision—you know, we've had three cases of capital punishment, and the judges had three months with eight appeal courts and 15 law clerks to make the decision. But you're on a street and the guy is coming at you with a knife or raising a gun, most incidents take place—the life history of the incident may be less than 15 seconds. He's out there making a decision very, very rapidly with threat of his own life.

The police chief is increasingly in a sense of bind. You have, on the one hand, a new community. I think it's incredibly important that this community is speaking out. But you also have the constituency of the unions. You have a constituency of the police officer. And he's faced with a series of binds.

I think if we, first of all, cast the police community as not respecting human life and also ignore the binds both of the guys on the street and also the administrator trying to run a progressive department, in the long run we'll do a disservice to this area.

Louis Zapata: I think we've gotten away from the original theme of why we're here. You look around and you see predominantly white chiefs and black and brown constituents or recipients in some cases. You can take that any way you want to. But I'm saying the thing we need to instill—I think we brought this out in our workshop—we need to instill in a child not to fear a police officer. That's a first step.

Secondly, the reason why blacks and browns have so many problems and do not trust police officers is because they know that nothing will be done when they get picked up. Now, that's changing quite a bit in the city that I'm from. But at one point a white officer could do something and he might get three days off. A black or brown officer would be terminated for the very same action. So, what I'm trying to say is that you've got a

community that is looking at you. You know, the police officer has got a uniform. That automatically sets him aside. It puts him in the limelight. And, as was mentioned earlier today, if something is done to a police officer, the news media picks it up and gives it total play with all the big bylines. But when someone in the community gets damaged, whether it's death or whatever, the first day all it gets is small type.

We must also recognize that all police officers are not the ones that are trigger-happy. A lot of police officers get killed also. And I think we need to address this as well, or the police officers that are here are going to choose to ignore us. I think we've got to draw that from them. We've got to hear their side because all I've heard up to this point has been our side, and rightfully so. We wouldn't be here otherwise if we were happy at home. We're here because of the double standard and the things that have happened to all minorities and then, as far as that goes, poor whites. He is in just about as bad a shape as a minority because he doesn't dare complain because he'll just get beat up some more. But we need to overcome that. Once we decide that we're going to deal with our problems, we must have policemen—the chiefs actively participating in these workshops, not necessarily here right now, but their input should be something that we could take back. That's the reason I came. I want to take something back to the City of Fort Worth. We've got here an assistant chief, assistant city manager, and myself. We intend to take back the best we can get out of this symposium and hopefully make some recommendations to our city council, to our administration, and to our police department about how we can improve police protection in Fort Worth. Hopefully this is the aim of everyone here.

Freddye Webb-Petett: In Portland there has been an increase in the reporting of abuses of citizens by police officers. I think the citizens group did something that is of value at least to citizens in the black community. It's also of value, I think, to the police administrators in trying to alleviate the use of excessive force. What that citizens group did was to put together a one-page flyer of information which basically detailed what things that should and should not be done when citizens are stopped by a police officer. It also details all those things that the police bureau wants private citizens to do.

It goes a step further and says that if in fact you feel you are being abused by the police, there are some specific things that you can do; it lists what kind of information you get, having witnesses, getting police badge number, and a whole series of other things.

If it's excessive use of force and you end up requiring medical attention, it details what kinds of things you need for an investigation of that report, be it by the police bureau or by a private citizens group. I think that's one way that we can go about educating our citizens as to their rights and the kinds of things they can do to prevent some of the abuse that we hear about.

Comment: If you all want to put a stop to some of this foolishness, I can give you a couple of hints. Uncle Sam can't do a darn thing about it because Uncle Sam has got no business messing with it. These good people have put a lot of time and effort into making this thing successful so that we could get together and get it started. Buty they can't do it. The congress isn't going to be able to pass a law that does it. And you're not going to be able to pass a law that does it. And you're not going to have federal standards that can do it. The Supreme Court is going to knock them down because it would be a violation of everything that we hold dear in the Constitution. We've got to do it for ourselves at home. Texas is one of about 30 states that has a statewide licensing or POST or commission, call it what you will, relating to this thing. If you want to get some changes made in the way policemen operate, are trained, and hired, their qualifications and so on, get with your state commission. Work on it. It's very susceptible to political powers. If you don't already have one, get your legislature to create one. It will be susceptible to the will of the people.

This gentleman from Wisconsin was talking about every two year licensing. We finally got our Texas commission approved in 1969. I worked on it for six straight years, along with other hard-working people. We don't have licensing in Texas. Once you're certified, you're certified. We've been working on it, and we're going to keep working on it. And we're working on something else. We're working on a deal where the police chief has to go up at least every two or three years and be requalified, and where we'll have standards before a guy can become a chief. I hope they don't make them too rough; I'll be out of a job.

But anyway, I think it's a good idea. We need to know what we've got on the streets working for you because you're the people we work for. We don't work for the governor and all these high-powered characters. It's those people on the streets that we're working for. And when I say it, I'm not being a hero; most policemen feel exactly that way.

Now, there's a few bad apples, and we all know it. But most of the police administrators sitting in this room right now, I guarantee, are going to say the same thing I'm saying. We generally know who most of the bad apples are a long time before they throw some kid in a bayou to teach him to swim with his hands handcuffed behind his back or to blow his head off with his hands handcuffed behind him. We know these people. We know they're trouble. And we generally know it is a long time before you know it. Give us some help, will you? We need to be able to get rid of these people. Get back to your civil service commission. Get back to your state commission. Get back to these organizations that create the problem and tie our hands. We can't get rid of them. You could fire that sucker 15 times, and that civil service commission would send him right back.

I hate him a lot worse than you do because I'm a good cop. By God, I've been one for over 20 years. And I'll probably be one till my dying day, if they'll let me.

If you folks would give us a little help, we can solve some of these problems. When we do, we're all going to benefit because this police brutality—it's not racial, it's not ethnic, it's a police problem. It's a bad cop. And the fact that the guy comes from the wrong side of the tracks and probably doesn't have a good lawyer and maybe speaks with an accent or his skin color is a little different, all that does is allow the guy's innate biases and prejudices to come on out. So, it's a good time, if you're going

to do a little butt-kicking and name taking, that's the time to do it. This guy can't fight back. And that's human. Police can get so frustrated—I'm frustrated sitting here, as you might gather because we're going around and around in a circle. And we've got to go out of here with some ideas you can take back and do something with. If we don't, then we've wasted our time.

Dave Smydra: I'd like to pick up on one of the points discussed in one of the groups that mentioned the importance of the police reflecting the community in terms of addressing the different kinds of problems. I would like to relate an experience that our city had, not from the standpoint of show-and-tell, but, rather, from the standpoint that it has a legal and policy dimension that I think is useful to other people.

The point is that the promotional and hiring practices that a department engages in can go a long way to address these kinds of concerns.

In 1974, the Detroit Police Department, upon the recommendation of the chief of police and approval of the Board of Police Commissioners, embarked on a voluntary 50-50 affirmative action promotional plan. That is, that for every promotional vacancy that occurred there was going to be one white promotion and one black promotion, and that all promotions would occur in that manner.

This was voluntarily done, not in light of a court order, but an internally-generated policy.

In 1974, approximately five percent of the supervisors in the Detroit Police Department were black. Today, I stand in front of you and report that a little bit in excess of 35 percent of our supervisors are black. Well, that policy has had an impact just in terms of the representation of the department. That that policy has had an impact on the quality of general police-community relations. While there may not be a direct relationship, I think there is, nonetheless, a relationship between that policy and the crime statistics that are evident in Detroit today, that fly in the face of some of the crime statistics in other cities. I think the quality of interactions that exist between the police and citizens in our city are an improvement over what they were four and five years ago.

I would also like to point out that that internally-generated policy did not go without challenge. Both police unions took us to court. I am pleased to report back that we now have a U.S. Court of Appeals decision that said that our program was lawful. We have a federal district decision that says that that program was lawful and that all we need to do is go back to the courts and demonstrate that, in fact, our program has a terminating point, that it is not an ongoing program. But, nonetheless, the internally-generated voluntary policy of affirmative action is a legal program. That is a point of some legal and policy significance for all police people in this country.

Just one final point. Those are all good things I think that have happened. I would also give a challenge to the community people here. When we first embarked on this policy, we had a tremendous amount of community support in 1974 and at subsequent public hearings. We are now going through some public hearings in preparation to go back into federal court. But I'm sad to say that community support has fallen of, perhaps because we're a success; I don't know. Consequently, what we're getting in our public hearings right now are those people who continue to find some criticism with our policy. We do not have people coming forward who find some support for it. And so, community people, you have a responsibility not only to point out a problem and to assist in the addressing of that problem, but you also have a responsibility to come forward and support those kinds of policies that you agree with when that support is necessary.

Paul Fenton: I think one of the ways to attempt to solve problems in law enforcement is for the police to have an image, to work at it, to earn the respect, the trust, the confidence of the people. This comes very hard. I think many police departments have accomplished that.

And I think if we do have the respect of the people they are more apt to help us in projects and problems throughout our city. And I was very surprised about a week ago to receive a pamphlet from the Justice Department outlining just about what I'm talking about, only they gave a variety of ways in which the community can help. The chief from Texas tells you, "Help us in regard to these bad officers." He is giving you an apple. The thing is there are many areas that we need help in. We cannot do it alone. Five-thousand more policemen in my city are not going to bring the crime rate down. It is the people that respect that police officer. And if they don't, we may as well go home. We have about 10,000 Spanish-speaking people, about 28,000 blacks in our city of about 175,000. I'm not bragging, but I feel comfortable right now. I know the chiefs of police in Los Angeles, the past chief, the attorney general in the State of Florida, the past chief of Providence, Rhode Island, and the present and past director of the FBI—all said words to the effect that without the people to help us we can do nothing in fighting crime. I happen to think that this seminar is very, very necessary to get us to know each other, to know how you tick.

Rev. Milton Merriweather: I want to disagree with this gentlemen who just left, who said we had the best police chief in Los Angeles. That's not true. That's the first thing I want to correct him with. Maybe I didn't hear you, but I thought he said he knew the police chief and he was one of the best. Didn't you?

Fenton: No.

Rev. Merriweather: If you didn't say that, I apologize, because we have the worst.

And I'm not the only one that's saying it. I'm the only one that has guts enough to get up and say it publicly. If some of the officers, captains, or even some of the sergeants or lieutenants would get up and tell Chief Gates to his face what I would tell him, he would quit the police force. But they get behind his back and talk about him. I listened to this police chief, and I commend him (indicating chief from Holly Park, Texas). I really believe he's sincere. The only thing I hate about it, he's not our police chief.

Now, I'm the man that stayed right on top of the Eulia Love case. I'm well familiar with it. That case was dropped. They were through with it. I stayed in the street. I marched. I fussed. I cursed. And they called me a troublemaker, communist. You

know, black folks are anything but right when they stand up for what's right. I want to agree with this chief when he said that the police chiefs know the bad eggs. You are right. They do know the good officers. They know the bad officers. And the majority of the officers are not bad officers. What makes the rest of them get worse is when the chief and the commanders cover up for the bad officers.

We proved that those officers were wrong in the Eulia Love case. It was also proved that Chief Gates was a big liar. It came out in the papers, and I don't think the *Times* is going to write up a lie without getting sued. So, what I'm saying is that when the police chiefs get behind closed doors with the police commission and say one thing and then get in the public and say another thing, sure it takes the trust from the people. We don't trust a chief like that. What the community needs is honest police chiefs and honest community leaders. Somebody said a few minutes ago, "What about getting the polices' badge numbers?" How in the devil are you going to get a badge number when somebody is beating the side of your head? How can you get a police number when you're getting whipped in the head? And most of the time when they pull this dirt it's at night. Then if anybody walks up to be a witness, they're locked up for interfering with an arrest.

Just because I got angry and ran the police off of my church parking lot, I had to go to jail. I told one of my members that jay-walked, "Don't sign that ticket." And I'm wondering now who's wrong, the police for parking on private property or the person that did the jay-walking. The mayor, he was the first person we went to. And right now you couldn't take a hammer and knock his mouth open when it comes to police brutality. The city council has sold out to the police protective league. They solicited money, and the police protective league gives the city council hundreds of thousands of dollars when election time comes. So, the city council's hands are tied. I think that's unfair. I don't think that a city council should take money from the police protective league.

I would love to be on the board that brings forth some solutions to some of these problems. We know what it takes to stop police from beating on us. Lock them up. Put them in jail like they do us.

The internal affairs division puts out a report in Los Angeles every month. I have some of those documents in my car where police officers have been caught drunk on duty. Two days off without pay. If I get caught with an empty beer can in my car, I go to jail.

I have in my car right now where a police officer—listen to this—was caught growing pot—do you want this in black and white? Gates fired him. But yet the man who killed Eulia Love is still on the force. Can't you see what I'm saying.

Now listen. Eulia Love was shot eight times. This is the third time the cop has been involved in shooting. He shot Janice Pecks. He's still on the force. And I'm saying that unless we get rid of the bloodthirsty murderers on the force, we'll never be able to stop anything. They need to go to jail like we go to jail. A felony is a felony.

Mike Purnis: We've heard training mentioned numerous times, not only the academy basic training, but in-service training. And I think we need to address training in broad gamut that would not be specific to any one area, but encompass all of them. We can only be held accountable and responsible for officers when they're in the training environment. Once they leave and go into the street, that's where supervision and reinforcement takes place. That reinforcement is being done in the street with supervisors who have attitudes, values, and morals that were developed in the forties, the fifties and the sixties. And so, we need to reach out in our training program into more than just academy basic training or in-service professional training. And not only just within the department, but within the community. This can be done by using community people to help to train the officers. One of the chiefs this morning mentioned using the minority people on his department to help train the officers on an in-service basis, learning the different cultural values and different aspects.

I know this will work because we had a problem in Idaho which—we worked with Robert Hughes from CRS out of Seattle—involved Indians and a fishing problem last year when the Fish and Game Commission closed fishing even to the tribe. A confrontation could have developed, but it didn't. After that, we completed, two weeks ago, a training session with the University of Idaho Law School in which we put together, in the same room, just as we have here, the tribal council members, lawyers, law enforcement officers, fish and game people, and conducted a 2-1/2 day training session which, in my opinion—and I think the critiques show it—was very beneficial and very valuable to all the parties.

So, I think we can go back and address some comprehensive training programs for law enforcement and the communities and do it jointly.

WEDNESDAY, DECEMBER 12

TENSION AND CONFLICT REDUCTION: SOME OPTIONS FOR THE POLICE

MODERATOR:

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Chairperson, Police Issues Work Group
National Interreligious Task Force
on Criminal Justice

PANELISTS:

Glenn King
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Hubert Williams
Director of Public Safety
Newark, New Jersey

Eusevio Hernandez
Deputy Chief of Police
San Jose, California

Patrick V. Murphy
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Washington, D.C.

Glenn King

I think it is appropriate that we include as a part of this program a discussion on options to the police and the community designed to reduce conflict and bring about conditions on the street calculated to make less necessary the use of force.

Most of yesterday, we talked about the use of force, excessive force, and the occasions in which there is mandatory use of force. In my view we don't always differentiate between those. But there seems to be a general acknowledgement that there are occasions in which the use of force is justified, and those are not the occasions which cause the major differences of opinion between the police and the community. But we could just as easily have devoted the entire conference to a discussion of safety. This is a conference on safety and force, and given a different matrix and a different direction, we could very profitably spend three days talking about the necessity of the police for maintaining conditions on the street in which the citizen feels an adequate level of safety. Because of the interests and the direction, we primarily talked about force.

So, we will be talking this morning briefly about things that can be done by the police to reduce tension within communities, to reduce opportunities or the occasion of conflict.

It seems to me that one of the major things the police can become involved in are seminars, symposia, and workshops such as this one. And I think it is good that finally there is a national conference on safety and force. This is not, of course, the first conference that has been held. During his remarks yesterday Mr. Bonilla mentioned two conferences that have been held in Texas, one in Fort Worth in November. I think programs of that nature are highly beneficial to us in law enforcement, and they're beneficial to members of community groups also. At that session we had 100 police leaders and an equal number of community leaders. And we met for two-and-one-half days to discuss problems we face.

Now, it seems to me that seminars and workshops of that nature are one of the major things that we can do to reduce tension and to arrive at understanding. So, I think the simple fact that we're here today talking about this—the observation has been made it's not going to solve all of the problems. If it solves any of the problems we face, then it's going to be well worthwhile.

A second thing that police agencies need to do is to develop an attitude of public service. Back in the mid-sixties in response largely to conditions that existed on the streets, there developed in law enforcement a police-community relations program in most major departments; and many of the smaller ones around the country organized police-community relations groups to operate within the department. These were community relations in name largely. They were in fact and in practice mostly group relations, race relations, and ethnic group relations units within the department.

I think they have done well. I don't think they have been a solution to the problem, obviously. And I think that the limits to the good that they have done are perhaps better understood than the breadth of the benefits. But they have been beneficial, I think, because they have focused the attention of police on this problem.

One of the disadvantages to them is that in some departments they have carried the entire police-community relationship role. And when this occurs, I think they serve as a disadvantage rather than as an advantage. For real benefit to occur there must be, throughout the department, an attitude of police service and an effort on the part of units of the patrol force and the investigative force to create within the department the police-community service attitude that we look for.

There are also things a department can do that will perhaps not resolve conflicts, but will place the department in better position to handle those conflicts when they occur and which may, in application, bring about a condition that helps eliminate the necessity for any kind of use of force at all. Internal affairs units within police agencies are now in common practice. They are recommended. They are very, very honestly not always well-accepted by the community or by the police officers themselves. Very frequently, internal affairs units are viewed by citizen as being a whitewash, an effort by the police department to cover its activities, to give the appearance of impartiality in investigation when that impartiality honestly doesn't exist. It's frequently viewed by officers as being a head-hunting effort that is directed specifically toward them to assuage public opinion.

So, the internal affairs groups are not generally the most popular within police agencies either from the point of view of the public or the point of view of the officer. I think there must be exceptions because of the number of IAD units in force across this country now. But generally I believe the internal affairs units do a good job. Those with which I have been directly associated have, in my view, attempted to make impartial investigations and to actually determine the facts. These facts then are properly communicated to the complainants and to the public. So, the internal affairs unit itself within a department, regardless of the level of its general acceptability, I think serves a very useful purpose both to the community and to the police. And I think more experience with them and more observation on the part of both the police and the public will bring them into greater acceptability on the part of both groups.

Inspections units within departments are also designed to produce the kind of effect that we're looking for here. Where the internal affairs units concentrate on the activities of individual officers and individual incidents, inspections units are generally given the task of looking at the entire operation of the police agency to determine if its policies and procedures and general directions are appropriate.

So far as the structure of the department is concerned, both the internal affairs unit and the inspections unit, because of the significant effect that they can have upon the relationship of the department with the community, must report directly to the chief of police. They must have his active direction in their activities.

One other activity or program a department can institute that I think has a benefit in this area is psychological services. Many departments have for some years used psychological tests in initial selection procedures, and these have been very helpful in

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identifying persons whose primary response is one of aggression, or who would be more likely, under the trying conditions that exist on the street, to resort to violence. And we have been able to weed some of those people out. Because psychology is not an exact science, we haven't been able to do it as well as we would hope, or as well as we hope in the future, because some still get through.

But there has been an expansion of psychological services beyond that point now. I know a number of cities where each time a police shooting occurs, whether a death results or not, departments now require that the officer go to psychological services and talk with the psychologist. I think this is particularly important when a life is lost. And this is not because of a suspicion that always when the officer takes a life, he is psychologically unbalanced, but because it is such a traumatic experience for the officer also. It is believed by some departments that any incident of a serious nature, whether death results or not, is appropriate justification for asking that officer to go to psychological services, both to determine whether there is a problem insofar as he is personally concerned, or if there are things that psychological services can do to help him adjust to the trauma through which he has also gone.

We talk about alternatives to force and the use of deadly force, and law enforcement agencies are generally restricted in this regard. There have not been very many developments in the last 2,000 years in weaponry. The invention of gunpowder really was the milestone in the invention of the sidearm. The consequence of the use of the sidearm is obvious. It does have perhaps the greatest potential for deadly force of any weapon in the police arsenal. And there are limited alternatives to the use of that force. Many departments are now exploring and trying to use alternative methods which are less deadly, less lethal. Some departments now use a baton and not the very short nightstick, the billy club that was carried for years, but a much longer baton. They give officers extensive training and practice in the belief that whether the pistol is used in an encounter by the police very often is determined by the officer's feeling of confidence and his ability to handle the situation without it. So, if we can increase the officer's ability to use some other weapon, something that is less lethal, less deadly, in the exercise of his duties on the street, this can give him a confidence that will not, in his mind, as readily require the use of deadly force.

Hubert Williams

As I see this problem, there are three perspectives that I tend to view it from. And the question boils down to police actions, and how those actions impact upon and affect the public; police inactions, what the police fail to do and how that affects the public; and police reactions, how police respond or react to given situations.

Most of us find that the problems in law enforcement are beyond the police. The great majority of tension-causing, conflict-producing agents that affect communities and steer people are beyond the police. Such things are inadequate housing, unemployment problems, the effect that that's having now on the law enforcement community, substandard education systems. So, the big ones police have little control over. But police have control over some very important and crucial things, and that's the area that we've come to address today.

When police do things as a matter of practice or procedure, when they establish policies, those policies and practices should be designed to ensure that the public interest is met. We have to be concerned when police act in a way that tends to expose the public to undue harm such as the lengthy discussions and questions that have been going on over the issue of deadly force and police shootings. That's a police action that substantially affects the public, particularly members of the minority-group communities. We have for the last several years attempted to develop the right kind of policies, the right kind of procedures, to govern police use of firearms. And the struggle will go on. And I'm convinced that we're never going to come up with a policy that is going to adequately control police discharge of firearms.

I'm convinced of that because the public expects the police to take certain risks. They expect the police to do that, and they're therefore not going to develop laws that will not provide the police with the discretion to use their own good judgment in risk-taking situations, or else the police simply will not go in there. And that will shock the public consciousness. So, you're not going to have that.

On the other hand, police, when they do use firearms, tend to use them disproportionately in the minority-group community. The impact can be tumultuous with respect to a public reaction, particularly after a pattern of such activities has gone on over a period of years. And we all know cities that have experienced this as a problem.

My own personal view, after running what I consider to be a pretty tough police department, is that the most significant ingredient in the formula is the commitment of the chief of police. The police chief can stop brutality. He might not be able to stop it totally, but he can substantially limit it by his actions or his inaction. So, the question of police shootings deals largely with the police chief and his commitment and where that commitment lies.

In Newark we've had two police shootings this year, a city of 400,000 people, 1,300 police officers, all the problems of urban America. Those shootings involved one bank robbery, and an armed robbery in progress. That doesn't mean that Newark is any standard, because it has too many problems to be considered standard by any stretch of the imagination. I only raise that because if you demonstrate to the troops that those guns are to be used properly, then they're going to cool it with the improper use of those guns, no matter what the policies are.

I won't go any further with that except to say that police shootings, police beatings, and police abusiveness constitute major factors that tend to create tension in the community that can have the capability of boiling over and not only engulfing the police, but the entire city.

Police in recent years have become organized, have developed unions, and like other organized groups have developed tactics and strategies to accommodate their objectives. Most of the

[illegible] to the [illegible], to supply [illegible] that it's important for us to look [illegible] than we would any other group. Sometimes [illegible] police will engage in blitzing [illegible] with summonses; that imposes a fiscal burden on people that live in the community. Sometimes they will engage in [illegible] arrests. For years and years statutes and ordinances can remain on the book without enforcement as a matter of policy. Yet police have total authority to enforce them at will, and they do when they decide that it's in their best interest through a [illegible] action.

Our union in Newark went through that last year--this year also--a work slowdown. In one little interesting example, I was riding down and one of the officers called in. He said, "I'm going into the precinct. I've got this criminal." And so I turned the radio up to find out what it was. And the dispatcher said, "What is the nature of the offense?"

He said, "Aw, it's a serious crime. I caught him drinking a bottle of wine in the street."

So, you can't stop the cop from locking people up for anything described as an offense under the ordinances, the statutes of a state or city that have not been amended or changed. They have that power, and that power is often used in a way to obtain the objectives of the officers. The problem with that is that it affects the social fabric of the community, and it creates attitudes towards the police that are long-lasting and leads to things that police administrators may find it extremely difficult to cope with in terms of discharging their responsibilities.

Police have to plan for problems; planning is a critical ingredient. Most of the things that we confront in law enforcement today we either knew or we should have known because all of the evidence told us that these problems would come to visit upon us. And any reasonable person sitting in our shoes as chief executives in these law enforcement agencies would have known and, therefore, could have planned. Planning is one of the options that is available to deal with some of the problems arising in the community that causes the conflicts and tensions that we've come here to talk about.

Police can affect the community by their inaction. They can fail to respond to calls for service. Or they can respond slowly so that they don't get to the job in a timely fashion. And then when they get to the job, they can handle it in a way that is not proper. And even if they handle the job properly, they can be insensitive and indifferent to the problems of the people they're dealing with, which is one of the underlying principles upon which our whole framework was established, that special relationship between police and the people that the police are sworn to serve.

A lot of the problems that police confront deal with what is generally a demonstration. And the question of how police handle demonstrations, I've categorized as a police reaction to a problem.

In one of the cities adjoining Newark, there recently was a very serious incident over a police shooting. Five bullets were pumped into an individual. He was in a car. There was a chase. The car crashed up, and the police officer ran over to the car. He testified that he thought he saw the individual reach for a shiny object, and he fired five shots. The young boy was killed. He never had a record, never had any problems with the police, didn't have any shiny objects that anyone could see in the car. There was no indictment in that case. But the community occupied the mayor's office as a demonstration against what they thought was excessive use [illegible] police.

The police officers' union threatened to go off the job if the law was not enforced. They said it was unfair for citizens to occupy the mayor's office. So that was a big problem for the mayor. How the police handled that situation was a question of how the police react to a problem; in this instance they handled it well because the major was totally involved in it. They didn't handle the shooting very well, and that problem still engulfs that community. It's going to be with that community for a long time. That's why it's important for police executives to establish meaningful policies, to provide adequate training, and to have firm leadership that has the tenacity to stand up against the crocys when it's necessary.

One of the most important things, I think, for policing in the 1970s perhaps is as old as the profession itself. And that is that the basic responsibility of law enforcement is to serve the citizens. In the old books that we read in administration it said that the police and the people must be one. In the beginning, when the system was first established, it was the people who did the policing. There was no such thing as the police.

As we came into an institutionalized system, we lost a great deal of the sensitivity that once existed in the law enforcement

community when the people and the police were close together. In spite of the nature of our society with its variances and ethnic cues and things of that nature, if we are to survive as a nation, it's critically important for police institutions and police leadership to recognize that factor. The police and the community must be one.

Police departments must be opened up so that people can have access to them. They should not be islands unto themselves. And police leadership should not allow police officers to use force without looking into those situations very seriously. Any time you have a policy that allows for an officer to shoot a gun and there's no investigation conducted, then I'd say you've got a bad policy. Any time an officer fires his gun, there should be an investigation of that discharge of the weapon, irrespective of whether the weapon was discharged at an animal, as a warning shot, or whether human beings were shot. Policies must communicate to officers that firing the weapon is a serious matter, and the highest levels of departmental authority are concerned when they shoot that gun. We're going to look at that. And the very highest levels of authority within law enforcement agencies must become involved in that situation.

Eusevio Hernandez

My approach to force and safety and particularly the options open to police is going to be concerned with what I call community-oriented law enforcement. And, by way of introduction, let's just say that in recent years neither community expectations of police conduct nor police expectations of minority community support have been significantly met. And, accordingly, the tensions in the community have grown to proportions that currently are of extreme concern in the minority community.

The seriousness of this matter makes it imperative that the minority community and the police initiate some steps to reduce the adversary climate of the community and return to a cooperative posture. It is very necessary, very essential for minority community safety and police effectiveness.

From the police perspective, it is worthy of note that any police strategy to reduce minority community tensions must start with a very serious introspective look into police customs, operations, police roles in the community, conduct and police practices. One of the roles that the police play in the community is that of omnipresence. This high-visibility role actually places the police as kind of a minority group. They are looked at with bias, often under a lot of stress, and have some very similar concerns to other racial minorities in this country.

Although the concerns of the police are very similar to those of the minority community, they actually are mutually incompatible. Let me give you an example. Any time that a police officer is killed, other police officers throughout the nation become anxious about their personal safety. And they make mental notes to make sure that if an individual or organization is identified with the killing, that they treat the individual or organization members with a lot of caution because they figure that their personal safety on the street just demands that they take no chances.

Very similarly, any time that a minority group member is killed by police use of excessive force anywhere in the nation, it's minority group members that become anxious and make the mental notes. And it's the police who are treated with an awful lot of suspicion and an awful lot of caution.

Essentially, tension and conflict in the community stem from the national incidence of the use of deadly force by and upon the police. And every recurrence just reinforce the tension in police community problems. I think it's pretty essential, pretty obvious that the police have a substantial responsibility to reduce minority community tensions. And in reducing those tensions, they must address those similar but mutually incompatible concerns.

Considering the impact that law enforcement has on the minority community, the professional and moral responsibilities of today's police administrator pretty much demand that police service delivery must be established on the basis of community needs, anxieties, safety, and concerns, and likewise on the relentless enforcement of the law against criminals, with due consideration for the safety of the officers on the street.

Police service delivery established on this basis is what I call community-oriented law enforcement. There are several options of community-oriented law enforcement that the police have. And I'd like to discuss a few with you. First, the police executive must establish personal credibility in the minority community. This is a prerequisite for reduction of tensions. Law enforcement standards of conduct and police administration philosophy, particularly in the area of community concerns, need to be articulated by the executive. The minority community must understand what behavior is expected of police officers by the police chief. It must understand the types of actions which constitute un-officer-like conduct. And, above all, the community must have a reasonable understanding of the procedures used for investigating and adjudicating cases of police use of deadly force. Only when that's accomplished can the police executive begin to attain some credibility in the minority community.

Second, the police executive must institute a firearms policy which clearly, precisely, and concisely establishes conditions allowing for the discharge of firearms. It should appropriately reflect the legal, moral, and social values of our modern society and include provisions for the safety and well-being of the community and of the police.

As important as a written policy is, you'll find that its administration is even more important. Without question, the atmosphere that the police executive establishes in administering the use-of-force policy is going to be the most significant predicter of the use of deadly force by his police officers in the future. If the chief is lenient, the cases of violations are going to abound. If the chief is fair, strict, and consistent, violations will be reduced to a minimum.

The effective administration of the deadly force policy is perhaps the toughest job that a police chief has. His deadly force

policy must be administered courageously, consistently, and without exception because compliance is to be expected.

Third, the police executive must develop a credible and comprehensive system for investigating the actions which are of concern to police administration and to the community. The system needs procedures which meet criminal justice requirements, police administration philosophy and provide community input to elected officials. Staffing of an internal investigations unit by the best qualified police investigator is needed by the police executive to enhance the administrative objectivity of the department and acceptance by line officers. Assignment of civilian minority employees is desirable. It allows complaints to be filed with employees who are not law enforcement officers.

Fatal cases resulting from the use of force by the police should be investigated by detectives, monitored by internal investigators, and also monitored by investigators from a criminal justice agency which is capable of conducting separate investigations.

Fourth, the establishment of a climate of accountability within the police agency is a major step in reduction of conflict and tension in the community. Extensive training is needed to ensure that each officer clearly understands police roles, agency standards, goals, philosophy, and community expectations. Supervisors need to continually articulate the expectations of the agency and the expectations of the community to their subordinates, and should continually reinforce the high standards of the agency through professional attitudes and positive leadership.

Police executives and police commanders need to continually enhance credibility and accountability through consistent application of sanctions. A climate of accountability will go a long way in having police officers of any agency achieve community expectations and department demands.

Fifth, the executive needs to achieve an equitable minority representation within his agency. He must ensure that entrance requirements are job-related, and that target minority recruiting is implemented. He must know that there are career development transfer policies which allow all personnel to compete for assignments in all units. Other needs include strategic deployment of minority officers in police operations, and minority community participation in recruiting and selection of police officers.

In conclusion, I believe that a comprehensive approach to involving the minority community in police processes will go a long way in alleviating minority community tensions and, further, that it's encumbent upon the professional police administrator to scrutinize police policies, test their compatibility with minority community needs, and to make meaningful changes whenever necessary.

It appears to me that the national awareness of the need for community-oriented law enforcement is growing rapidly. And I think that the gathering of this group is a prime example. This national awareness places police administrators in a very strong position to obviate the causes which create tensions that have now become of paramount concern to the minority community. I think that leadership should be exercised through community-oriented law enforcement. And I think that leadership should be exercised beginning immediately.

Patrick V. Murphy

Rather than exploring what has already been covered I would like to concentrate on an imperative of strong, consistent, thorough management of police authority to use force. The use of force by the police and against the police can be, and usually is, a very tragic problem. It's a very difficult problem for the people involved, the police officers, those who are the subjects of police force, families, friends, and community. A great deal of emotion surrounds the problem; a great deal of fear and a great deal of tension. But it is a problem of great importance and great concern nationally today. And I'm pleased to have the opportunity to make a few comments. I'm also very pleased that the Police Foundation was able to do some of the earliest research on police use of deadly force with the cooperation of seven outstanding police chiefs who permitted us to collect data in their departments and get for the first time some of that important data.

Here, let me make some initial observations. First, there are times when the police must use force, regrettably even deadly force, in the performance of their duties. The authority to use force is one of the principal distinguishing characteristics of the police service.

Second, events of the past 15 years have caused the American police service to exercise increasing restraint in the use of force in incidents ranging from hostage-taking and civil rights demonstrations to such everyday curbstone events as making arrests and dealing with juveniles. The police today are more likely than 10 or 15 years ago to rely on patience and negotiations rather than on snap decisions and arbitrary commands to establish and preserve order.

But, third, the police still have a long way to go before they use force, including deadly force, when it is absolutely called for. To say that the police are a lot better today in dealing with citizens, particularly minority citizens, when exercising their authority is not satisfactory because the level of police performance still can benefit from a great deal of improvement. Obviously there would be no need for this conference if the police in all communities were exercising their authority with good judgment and restraint.

Now to my point about management. The key to assuring that the police use force with restraint and moderation and only when necessary is strong, tough management emanating from the highest levels of the police agency. I accept the premise that every police department should have a written restrictive set of guidelines on use of deadly force. Generally, those guidelines should limit the police officer's authority to use a firearm only to those circumstances when the officer's life, or the life of inocent citizens, is at stake. To be more detailed about it, we could go into some other specifics. But written guidelines to this effect are not enough. The top levels of administration in a police agency should not only promulgate such guidelines but make

certain that those guidelines are followed. How can this be done?

I would like to draw from my experience as police commissioner in New York City and from the research of Dr. Jim Fyfe, from whom this conference will be hearing on Thursday, to make my point. And I don't wish to exploit Jim's material but just to make a point or two from the results of his research. In New York City in 1972 the department issued strong guidelines on the use of deadly force. The directive prohibited warning shots, shots to summon assistance, shots which endangered innocent persons, shots at or from moving vehicles. The directives we issued stressed the value of life and declared that the police revolver is a weapon "for personal protection against persons feloniously attacking an officer or others at close range." As important as these guidelines was the manner in which the guidelines were enforced. First, we established a high-level administrative review procedure. This meant that the circumstances surrounding police shootings would be examined by high-ranking officials of the police department. The signal was clear to the officers in the street that if they fired their revolvers for any reason, they would have to answer to a group of officials who reported directly to the police commissioner.

Second, there were periodic minor changes and review of procedures, and the like, which served as written reaffirmation of the guidelines on the part of top management and made officers continually aware of the guidelines. In other words, the message was sent to the field, and periodically reinforced, that top police management was watching closely the use of weapons.

Jim Fyfe, who studied the circumstances of every shot fired by New York City police officers over a five-year period as a basis of research for his doctorate in criminal justice, found several interesting things. Before the guidelines were issued, 18.4 officers fired their guns every week, a statistic which, after the order, declined to 12.9. Yet during this period, reported homicides and arrests for violent felonies which Fyfe's research found to be correlated with police shootings continued to increase. Shootings in defense of life, which are generally considered justifiable, remain fairly constant in the period studied between 1971 and 1975. But shootings to prevent or stop crimes involving fleeing felons declined 75 percent from two officers to 0.5 weekly. Before the guidelines were issued, New York City police officers shot or wounded 3.9 people a week. After the guidelines, that figure decreased to 2.3. Jim Fyfe will have a lot more to say about his research later in the week.

What I wish to stress is management, particularly the importance of letting every police officer know what top management expects and reinforcing that message periodically so that there can be no doubt or suggestion that management is backing off its position on the use of deadly force or, for that matter, the use of force in any degree. For the same strong management positions on the use of deadly force are equally potent for the use of force generally. It boils down to this. It is not enough for police management to show good intentions by issuing restrictive guidelines on the use of force. Police management must also demonstrate to all officers that it means what it says.

I repeat that this is a very complex problem, and it needs a great deal more research than has yet been given to it. I think the principle of accountability, which has previously been referred to this morning, is very important—not only accountability at the highest levels of management but at middle management and down to the level of supervision. I also believe that violence can beget violence and that we do a service to police officers if we can implement policies and practices which will reduce the use of force, especially deadly force by the police. It is my belief that one result of that will be less violence used against the police themselves.

There is no question that police departments must become more representative of the communities they serve. As they do become more representative, there will be that greater awareness of one another's needs and thinking. There will be that unity which is our ideal of the police and the communities they serve. And I think that the difficult problem of discretion concerning the making of arrests as well as the use of force are also very important issues that call for further research.

One of the earlier speakers said we will never do away with the problem of police use of force or even occasional excessive use of force. But I think important meetings like this one, bringing together the people who are here and permitting the kind of open discussion we're having this morning, can do a great deal to minimize the problems for now and especially the future.

QUESTIONS AND ANSWERS

Question: This question can be for any of the panelists. The advent of police unions, political power, has been used in many cases to defuse any possibility of grand jury action or disciplinary action against officers involved in questionable shootings, thereby leaving, in many cases, a police chief powerless. What is your experience with union mobilization around incidents of this nature? And how can the police administration work with the community in defusing this onset of political power that many police unions have gained in many urban cities?

Williams: I don't think the grand jury is a viable vehicle to deal with police unions. Based on the rules established by grand juries and the circumstances under which those shootings generally occur, police officers in the performance of their duties will be deemed justified in their shootings if they think they saw a shiny object, and that is all taken from the cases the grand juries have heard and the decisions that they have rendered with respect to the use of deadly force. They don't have to see the shiny object. It doesn't have to be a gun. All they have to do is think they saw it.

Police unions will mobilize around an officer any time they feel that that officer is being threatened. They are very empathetic. They see themselves in the same shoes. And the emotionalism that surrounds the problem internal to the police department is such that you can always determine where the unions are going to be. And in recent years the police unions have become a force to be reckoned with. In some cities they have caused the police chief's demise. In others they have taken on the mayor. They have had legislation passed at the

state level that substantially limits the discretion of the municipality with respect to what it can do in the policing area. So, there is no question about the power of the unions.

I would think that the police chief, the community, and the political leadership within the city—that is, those people who are elected—have to find some common grounds upon which they can stand. Generally I think the statement has been made that the credibility of that chief is critically important. I don't think there is anything we can do per se to deal with the unions except that in time the public will come to recognize that police unions do not deserve the special protections they have under law that make it inordinately difficult for police chiefs to deal with people in the department.

Beyond that, I don't know how much further I can go in response to your question. The important thing is that the chief must be firm and strong with respect to dealing with these problems, in spite of the pressure that may come from the union. And that's all I can say on it. If the police chief buckles under union pressure or under community pressure—because it's two-faceted—that is, the police chief must have policies that are reasonable, that govern the discharge of firearms. And when his officers are right, he ought to stand behind his officers and he ought not to buckle under community pressure. His policies should be publicized and the process should be open. But when his officers are wrong, he ought to stand behind his policies and make sure that the unions do not cause him to buckle either. So the whole thing depends largely on the chief and how he chooses to exercise the powers of his office.

Question: I'd like to ask the gentleman that just got through speaking—because I like his answers, first of all—what is your feeling about internal affairs, the people that supposedly investigate citizens' complaints? What is your opinion about having outside people handle these internal community complaints? I can only speak about where I come from, but to me internal affairs is just a rubber stamp on what an officer is doing. And my question to you is, what is your feeling about improving internal affairs with outside people who could handle the situation and are not there just to protect the police officer?

Williams: I'm well aware of the source of your problem. When I first took over the police department, I talked to Pat Murphy, who had considerably more experience, after running all the police departments he has, to find out whether there were any departments around that had good experience with internal affairs. And I also talked to Glenn King, who at that time was the executive director of the IACP, because I was having a serious problem with internal affairs myself.

As a matter of fact, during my first four years I changed the leadership in internal affairs four times simply because, as you say, it's a rubber stamp. And the problem that most chiefs face is that when they get those reports, they're the most reasonable reports you'll ever see. You can't imagine why the officer is up there in the first place. And that's what the chief is confronted with. That's his evidence. And it was a rarity during the early days that I would find instances, particularly where it was a question of abuse of force, deadly or otherwise, that the officer was wrong in any way. And it's hard to find people in police agencies to do that job, very hard.

Now, I have heard there may be some police departments where the internal affairs officers operate totally objectively without this fraternalism that tends to pervade the whole police agency. That may be true. I found it to be an extremely difficult problem to deal with internally. And I thought seriously of developing a system. As a matter of fact, I had reached a point at one time where I had actually developed a system. It was just a question of implementing it, with substantial civilian involvement throughout the entire process. We never did get to a point of implementing that system for a whole host of reasons. But I was able to find within the police department, which has about 1,300 people, one guy to run the internal affairs unit who would be objective and firm and who really didn't care very much about the fraternalism. And what tends to happen, if you can get one, two, three people like that, you can begin to move things in the right direction.

The other thing is that the chief has to make things very clear to his people. He may have to get personally involved to a degree that all of the textbooks say you should not, in order to get to the bottom of some of the problems that occur with the internal affairs unit. And he'll just have to sort of make everybody understand that he doesn't want a whitewash. And internal affairs people come under the gun too. That is, if they're going to whitewash these investigations, that's counter to policy and they're not being loyal to the administration. I expect the investigation to bring me the facts, not to whitewash. I don't want that, and I think they understand that.

I think some civilian involvement is healthy. It's going to be extremely difficult for a chief to introduce a system in policing that is going to have civilians overseeing that project in any substantial way. And I think the thing we're all interested in is to have a system that is going to operate effectively but yet be sensitive to these problems and not tend to whitewash them. And it can be done with the right chief. The police chief has to work with the citizens. Let them be involved in the process. Let them come to the trials and hearings. Let them see what's going on. Let them review things and make recommendations and introduce those recommendations if possible. That's a very healthy way to do it. And I think if it's done that way, it could be done immediately and it can be effective.

King: May I make a suggestion to you on this also? And I think the figures will be available to you. Why don't you go to your department and ask them to give you the figures for the investigations that they have conducted over a period of time. I may be suggesting something your department doesn't want, but I think I will not be. Go ask them what their percentages of sustained, unfounded, not sustained, and exonerated are. And those are probably going to be the categories that they use. I think you may be surprised at the answers. I was surprised even in the department that I'm in now to find out that we're sustaining 62 percent of citizen complaints.

Question: I agree with that advice. Unfortunately, it doesn't work all the time. You see, when the bank gets robbed, the bank doesn't call bank robbers to investigate the robbery. And that's

what I'm afraid is happening: police investigating police, and it's just a coverup. And with all due respect to my police chief, I still think he's not utilizing all the community input that he can. If he thinks he's good now and if you think he's good now, he could be better by utilizing more community help rather than just a few people. You get a little clique in the community and that's what you work with. And that is very detrimental to any city.

Another comment that I had was that as you heard Eusevio Hernandez say, when police get shot, they get murdered. Let me tell you, when citizens get shot, they too get murdered.

Murphy: Could I say one last word on this whole problem of internal affairs units, civilian complaint review boards, inspection divisions? The range from very weak or very poor to very good is a very wide range. I think there are some excellent internal affairs units. I think there are good citizen review procedures in some departments. And I think those processes have credibility in some cities.

There are many factors involved. If the police chief has the power to reward people who will do that work, which is considered difficult work for most police officers, then I think it's an important factor in getting integrity in internal affairs units. Remember they deal not only with excessive use of force, but they deal with the problem of corruption. Police chiefs are very concerned about these issues. Police chiefs can lose their jobs over these issues. We may have the impression that police departments are totally closed organizations. I will say they are very closed organizations, but they're not totally closed by any means. And some police chiefs and police departments have suffered as a result of the investigations of investigative reporters who have found flaws in the work of internal affairs divisions or civilian complaint review boards. Also the district attorney has authority to investigate. These may even be federal investigation.

So, the police chief himself is concerned about the negative effect on him and his career if there are flaws in the operation of these important units. And I think rather than dismiss them in a general way and say they're useless or they're no good, that, as Glenn King said, it might be very important to inquire about how your department operates as compared to some other department. And an awful lot of the improvement that we are seeing in policing in the United States today is resulting from the fact that people do inquire about what the policies and practices are in other agencies. And then they raise those questions with their department. And very often the result is improvement.

Question: Yesterday morning we heard Mr. Jordan present a profile of demographic characteristics of victims of overreaction of police force. I'd like to hear some member of the panel present a profile of a police officer most likely to overreact. I find it very difficult to believe that, after-the-fact, after a tragedy has occurred, police managers did not have some indication it could have happened on the part of that one person prior to the time it happened.

It seems to me that through the planning and research section of the various police departments, they should have some notion about which police officers are having the kinds of problems that are most likely to lead to these kinds of instances.

Perhaps Mr. Murphy would be more appropriate in responding to the question, but I'd like to hear from anyone who has feeling going.

Murphy: The New York Police Department, for one—and I'm sure other departments—carefully track today the experience of officers who use force, especially deadly force. And they very carefully evaluate that to observe any kind of pattern. Also there's a responsibility on supervision to attempt to identify an officer who may overreact or may show some signs of being unable to deal with the stress of working, for example, in a high-crime, especially violent crime, part of the city. Glenn King made reference to the fact that psychological testing, interviewing, referring, and counseling are much more common today than in the past. And actually I think the principle is that every officer should be able to work in any section of the city. But we do know there are differences in different parts of the cities and that the pressure is greater on officers working in high-crime neighborhoods than it is in low-crime neighborhoods. And police departments are doing things they can do to remove officers who may not be able to function at their best in the most difficult assignments and put them in assignments that may be less difficult, where there is less likelihood they may be called upon to use force, although, ideally, we should have no officers who can't work anyplace in the city.

Another thing that happens in the New York Police Department and probably other departments is that, under a career plan, officers' careers are evaluated and measured by the type of duty they perform. There's a great difference in the pressure and tension on an officer, the stress, in a high-crime area and a low-crime area; and this is a factor. So, in a variety of ways it would take us a long time to go into all of the specifics and detail. But through the personnel administration function and in other ways, I know police departments today, some of them at least, are paying attention to this problem and trying to do the very best they can do within the law. Remember there are the unions, there is the law, and the police chief is not a dictator or God Almighty. He can't do all of the things he might like to do. But within their authority, I know many chiefs are very sensitive to that problem today and are doing the best they can about it.

King: If I may make a comment on this also, I think you can't identify the officer in your department who is going to use deadly force, because circumstances determine who that officer is going to be. I think our major concern is identifying those officers who are more likely to improperly use force or to use excessive force. And I think there are things that the police chief has an indicators of that. It is not an ordinary thing for the use of deadly force to occur when there has not been some use of excessive force at a minor level by that officer.

I know as a chief I have the right to order any member of the department into psychological services for a battery of tests. And if I have officers who have a number of reports for verbal abuse, who have a number of reports for excessive use of force when the complaint is justified, then I can order them into psychological services for a battery of psychological tests. This is

not exact; it is not as reliable as we would like it to be because it's still a very inexact science. But there are indicators and there are suggestions, and you can handle it in a number of ways. You can handle it by assignment, finding a less critical place where the opportunity is less likely to occur. There are things the police chief can do.

Hernandez: I'll just say that, yes, it is very inexact. The psychological profiles are difficult to obtain because some of the actions are spontaneous. However, a solution to the problem is close and proper supervision by first-line personnel. That will probably give you the best measure and first indicators of who might be having problems or who may be unfit for police duty.

Question: I'd like to make a comment on the last question. There's a term called "negligent retention," and every chief in America should be aware of that. It's up to him to develop profiles of the people that work in his department. And a police chief can be held personally liable for that if he doesn't develop profiles and check who the shooters are in his department, who the people are that citizens continually accuse of police brutality. So, it is indeed a responsibility of the chief to find out who the troublemakers are. If you ever intend to develop a department that is not totally reactionary, as soon as you identify those people and they come up with their wrongdoings—and the percentage is usually very small—take them to task through your internal affairs section. And in Detroit we do have a civilian commission that accepts all complaints for lack of service or improper service. Its members decide whether they're going to investigate the complaint or turn it over to the department. And even if the department does investigate, the civilian board can reinvestigate if the police department does a bad job.

So, the key thing for every chief who is sincere and for the public to know is that if the chief doesn't do his job in identifying people in the department who shouldn't be police officers, he can be held personally accountable. And I think that's the best tool that the community has in keeping check on the police department and its faulty policies.

Question: This question is for Mr. Hernandez, if I may, please. What kind of actions has your police department taken against a police officer who has been accused of using excessive force or verbally assaulting a person being arrested? And, secondly, do these accusations reflect in any future promotions of such police officers?

Hernandez: Let's answer the last part first. Yes, those are considered every time someone is up for promotion. Not only that, but when they seek transfers to preferred spots in the department, their record in the internal investigations unit is also checked. Usually, the individual with some negatives will not be selected over somebody else with the same qualifications.

The first part was what the San Jose Police Department does relative to officers who verbally abuse someone that they have arrested? The process is the same as any other internal investigation. A complaint is made; it's investigated. That's probably about the toughest and most difficult investigation that can be conducted: something that someone said. But they are investigated.

Question: Can those individuals be trusted? Let's say that a police officer has been accused of committing—or been involved in—excessive use of force. Let's say that the internal investigation unit finds insufficient evidence, not enough witnesses. But it's still a question whether or not he actually did it, whether or not he actually committed that so-called crime. Let's say we did not get sufficient evidence to really say that he's guilty. Can you trust that individual?

Hernandez: It's difficult to make an assumption. If you don't have enough evidence to conclude that he did or didn't do it, can you trust him? Yes, he could be trusted. It's quite a different question.

Question: I have a question for Commissioner Murphy. Commissioner, you have a great deal of police experience, and I see from your statement that you're in favor of a restrictive deadly force policy. And one of the things that I sense at this meeting is that many communities have great difficulty in obtaining a restrictive policy on the use of force. Do you feel that it would be helpful for this conference to recommend the adoption of a uniform code of professional police responsibility which would include a restrictive force provision and that this be advocated for use by communities throughout the United States?

Murphy: I think it would be useful for the group, if it's so inclined, to take a position and put that position in the public forum for debate and discussion in communities across the country and for adoption in those jurisdictions where support for it can be obtained. I think that it is useful to get these positions stated and in the public arena.

Question: Do you feel that it would be persuasive to law enforcement officials and local communities and the people that they are concerned about responding to? Would it be persuasive to them in adopting a restrictive force policy? In other words, would it be both a sword and a shield? Could they say: "We're doing it because nationally this is a problem and we're in line with what a national organization—whether it's the Community Relations Service of the Justice Department, the Law Enforcement Assistance Administration, or some other agency—is doing?"

Murphy: I assume the resolution could only carry the weight of the opinion of those attending the conference, and as an expression of the views of those attending the conference it would have value, in my opinion. How much value, it's hard to say. Obviously, it would not be an official position of the Department ment of Justice, United States Government, or Community Relations Service. But I think it's good to have such a position articulated, circulated to the news media, city councils, mayors, police departments, and citizen groups in order to raise the level of the debate on the subject in each community.

Question: Can you think of any other ideas that might be beneficial to the people in the local community in obtaining a more restrictive force policy from their police departments?

Murphy: As I mentioned earlier, I think there's a great value in people collecting information about the policies and procedures in other jurisdictions. It seems to me, as I follow the scene as best I can, that in city after city we'll see an event occur and go through to some conclusion with a total lack of awareness on

the part of anybody in the community that in some other city there are different policies or procedures which would have been very useful.

So, one of the great values of this conference, I think is an exchange of information about more researches occurring, more writing being done on the subject. That awareness will raise the level of practice, policy and understanding both among citizens and government officials and police about how to deal with this very difficult problem and develop better policies and practices.

Question: I just wanted to share briefly a response to the question that was asked earlier about the stressful job of police officers. I would like to recommend and share just a little bit about our work in the Boston area. The Boston Police Department, as well as other police departments across the country, is now understanding and dealing with the stressful nature of police work. And the Boston Police Department has a stress unit. Basically, it is to serve the department and the officers who, by very special circumstances, are being cited for behavior that is not consistent with policies or servicing the community well. Many of the police departments have done some statistical research, and have seen that police officers have high divorce rates, are suffering from psychological disturbances, and they're still charged with responsibilities as if they had no stressful jobs. I would like to recommend to chiefs of police and people in policy-making positions that officers be offered regular psychological services, whether they need it or not. And, facetiously, I say that because of the stressful nature of police work, they all need it. We all need it. It should not just be officers who work in high-crime areas, ghetto areas, or who work with minorities or who have committed shootings. All officers serving in full capacities should be put through regular standardized psychological testing and services so that we don't have to be crisis-oriented, so that we can be preventive. We are helping officers do their jobs much better and therefore they're better able to serve the community regardless of what situation may occur.

Moderator: I can't resist adding to that. At the last Chicago Police Board, the organization with which I work in Chicago, Citizens Alert, recommended that very thing, that there be psychological testing at the entry level, and periodically, just as a routine measure for everyone so there was no significance that there might be something wrong if someone were asked to undergo testing, that this be done routinely periodically, as well as when they had been involved in an incident.

Question: I would like to address this question to Mr. Murphy. What if you went to the police chief and the police commission and also internal affairs many times about officers who have repeatedly used excessive force—and I mean with sufficient evidence from the community to prove that these officers believe in beating and choking and that this is a constant thing with certain officers? And then you take these officers' names to the police commission, you turn them in, and nothing is done about it? And then these same officers go back and do the same thing again? This is what happened in the case of Eulia Love. The officer who shot Eulia Love, this is the third incident he was in. And yet he's still on the force.

So, I would like to know what can we do and where do we go when we bring complaints against these types of officers. The community knows who they are. And we turn them in, and yet they stay on the force. Now, who do we go to from here?

Murphy: I, of course, am not familiar with all of the facts, so I can't make any assumptions. But just to pursue your question, in addition to the police department, an internal affairs division, and a police commission, of course there are other agencies which are concerned and some of them have had quite a significant impact. The district attorney, for example, has a responsibility. The federal government has a responsibility. There's also the news media. In many cities investigative reporters and particular newspapers have investigated these problems. And because of their findings and their reporting, there have been some results. All I can do, because I'm not familiar with the situation, is to suggest to you that there are many, many other possible avenues of relief.

Question: Okay, one more question. What if the district attorney even agreed that this was a wrong shooting and yet he failed to do anything about it? He admits, "Well, it's wrong but. . ." What if even the police chief admits that it's wrong but. . .? They admit that it's wrong, but yet they do nothing about it. This is what I'm trying to find out. When you've gone to all the sources you know, and all of the sources that you've been to have agreed that it's wrong but. . . Answer the "but."

Murphy: Again, I'm not familiar with all of the circumstances of the cases referred to, and many of these issues are extremely difficult. It seems unusual to me that a police chief, a district attorney, maybe a mayor, and a police commissioner could all admit that something was wrong. I don't know how wrong. If they admitted that something was criminally wrong, it would be one thing, as distinguished from a regrettable case of poor judgment. But for them to admit that something was seriously wrong, my impression would be that the consequences against them would be enormous from the news media and the voters. That's just an assumption I can make.

Question: Would you like for me to get my briefcase, sir, and bring the documents and lay them in your lap and show you where they admitted it?

Murphy: Obviously, I'm not the one to solve the problem. I'd like to help in any way I can. It's a Los Angeles problem. But I have heard, for example, that the district attorney in Los Angeles has instituted some new procedures now. Maybe they will be helpful.

Question: You said now?

Murphy: I read in the newspapers that some new procedures have been established. Also, there's the federal government. There's the Community Relations Service. There's the FBI. There's the news media. I am attempting to point out that there are many possible avenues of relief, and I'm sorry that I can't give you the exactly correct answer to this problem.

King: May I make a comment on this? There are five approaches within the framework of the law that you can take: possible civil prosecution under federal statutes, possible criminal prosecution under federal statutes, civil recourse under state statutes, and administrative resource within the department. If

you have explored all of those and you're absolutely blocked in every one of those, then you as a citizen have a right to go into the court yourself with it. And I think that this is a procedure that you might take a look at. But you do have, as citizens, both the recourse to civil litigation and to criminal litigation. Apparently, you feel that you have not gotten what you need administratively. The administrative department has not handled it. But in these four other areas you could look for recourse in specific individual cases.

Question: How would you get it into the court, sir? You said go into the court. How would you get it into the court? Would you have to go through the district attorney?

King: You would have to go through the district attorney.

Question: It's impossible in Los Angeles.

King: Have you been to the federal authorities also? You see, you've exhausted there perhaps the state setup.

Question: I'm under the impression that you have to go step-by-step.

King: You do not have to exhaust your remedies at the state level before you go to the federal level.

Question: I've been to Washington. I'm going to be back here.

King: You don't have to do that.

Question: Commissioner Murphy, there's an expression in the black world that you have to pay your dues. And knowing something about your past history in New York City, you have certainly paid yours. You made administrative decisions under great risk to yourself and came up against the system, so I have great respect for your past history and your ability. Therefore, I ask you a question that is in line with the difficulty of your operation. Having worked in a number of police departments at the top level, what would you do differently now than you did then for recommendation to those who have the problems now?

For instance, would you have part-time police? Would you give time off to go to college? Would you have a periodic review for reentry so that officers only have a contractual time for something like three years, five years or six years and have to be reappointed based on their past history and performance? Would you break up assignments—for instance, having secretaries do secretarial work instead of having policemen as secretaries and taking complaints? Would you have more para-professional police? Would you have more civilians? What would you do differently than you have done?

Murphy: I certainly favor time for education. I support encouraging officers to get more higher education, recognizing higher education in the promotion and assignment process, using more civilians and paraprofessionals and sworn officers in many positions, and, in unusual cases, even granting educational leaves of absence. Certainly, a basic question—one of my great frustrations, especially in New York—is the hiring of more minority police officers. The problem is with civil service rather than with the police department. The civil service controls the written examination and the procedures. So, in both entrance and promotion I see a great need for our police departments being more representative of the populations, which would mean more minority officers and promotion of more minority officers. So, to the extent that I could accomplish more in those areas, if I had the opportunity again, I'd certainly like to try.

Question: There are three other slight little questions related to the ones I've just—one you haven't answered. Would you, for instance, have a period of time for civil service review for continuation? I know they do that for ten years as a matter of internal policy for continuation; but I'm talking about, say, every five years.

Murphy: If you're talking about something similar to what some state police agencies have had or the military reenlistment system after two, three, four, five years, a person might not be accepted for reenlistment, well, that might be of value. But I think if you have strong standards for separating out people who don't meet the standard on a day-to-day basis, without even waiting until the end of an enlistment, that would be good. But we talked earlier about unions and how powerful they've become and how difficult it is in many jurisdictions for the chief to separate people who don't meet the standards.

Question: As a successful top administrator, as a matter of opinion, what would be your opinion on washing out at the bottom end of a scale of 100? Would you say 10 percent, five percent, for readjustment in any line of administration where you're having multi-thousands of employees? What is a fair standard?

Murphy: I think it's awfully hard to set a standard.

Question: IBM, for instance, says that the last five percent of its employees, they automatically wash out on a periodic basis in order to regenerate within the system a better type of employee. What would you say it would be in the police department?

Murphy: I guess it would depend on how strict the entrance selection process was. If that were very strict, perhaps there's need to wash out very few. Although many people come into police work and find themselves not well adjusted for it, for their own benefit as well as the agency they should be separated out. If the entrance standards are not high enough, then maybe there is a need for a much higher rate of washout during probation or in the early years.

Question: Would you believe in a single test for the entire state for police—for instance, a state examination, rather than each locality having its own?

Murphy: I'm not sure we're ready for that today. I'd like to see a lot more standardization in police work, but there's so little of it so far that I don't think we're ready for something like that on a statewide basis.

Question: They give polygraph examinations for entrance. Would you believe in this for promotion, for instance?

Murphy: I'm not sure the polygraph should be used in every case. If there is evidence suggesting that it's called for, then I would favor it. I must report to you that there are jurisdictions today in which the police unions have succeeded in prohibiting the use of polygraphs.

Question: I'm in such a district where the police union was fighting to have it for entrants, especially when minorities began to apply. When we insisted upon, as a policy, that it be used for promotion, we found the resistance against having it for entrants disappeared, remarkably.

Murphy: Interesting.

TENSION AND CONFLICT REDUCTION: SOME OPTIONS FOR COMMUNITY GROUPS

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Dr. Ethel Allen

Our charge here this morning is to address the community's options relative to the issue at hand. Pursuant to that charge, I have approximately five suggestions that I feel may possibly be utilized by community organizations around the nation in an effort to exercise what options may be open to them.

First of all, there is a need to recognize that with an issue of this type and magnitude, we must first establish credibility within the community itself and also establish credibility with the police. I think in the studies I have done, which are extremely limited at the present time, we have determined that there exists within the community a certain lack of credibility in the relationship with the police and vice-versa.

Under those circumstances, I would certainly advocate that the first order of business is to establish that definitive credibility within the community because the interest that was once evoked by national media coverage has lessened to some degree, and we will be preoccupied over the next four to five years with international attitudes and behavioral practices around the world, as opposed to those which happen at our local level.

Secondly, I would advocate the creation of a mechanism for acquainting the community with what the police department is about. In the City of Philadelphia, for example, if you ask the average citizen what the police department does, they will tell you they put patrol officers on the street, that they have a detective division, a narcotics division, a vice squad, a morals squad, but if you ask what does the police department stand for, they have no idea.

If you ask them what rights they have or what infringement of citizens' rights they are most subject to, you will find that citizens have a very limited knowledge. So my second community option would be to recommend that you acquaint the community with what the police department is all about, where its administration is coming from, and where the police department is apparently headed.

Third, I would advocate the separation of the police community relations unit from the police department, placing it under the mayor's office. And I would say that it should be a unit that is empowered to do the kinds of investigations that are currently done by the internal affairs department, empowered to make the kind of finite findings that are currently done by the police department and by the administration of the police department, and the internal affairs department, and that this unit under the mayor's office should be made up of appointed citizens who are competent, not qualified but competent. There is a difference in the two words. And I want to underscore that here today. "Qualified" is a term, a buzz word, a code word, which is used relative to minorities when they want to keep us out. Competency is something they never use relative to minorities, but which we all possess. So I underscore the word, "competent."

Competent citizens would be appointed by the mayor and city council, and the police representative would be appointed by the police department, or particularly the police administrator.

I recommend that the ratio of citizens to police be two-to-one; that affirmative action principles be observed in the appointments; that all votes on the issues and matters handled by this unit be of a two-thirds majority; and that there be associated with this unit an advisory council of individuals selected because of their ability and commitment and that their role and responsibility be the monitoring of the unit's activities.

My final suggestion would be to use the ascertainment rules of the Federal Communications Commission, which require that minority problems and needs be met by the media, especially the electronic media. You should involve yourself in the development of an ongoing program of approximately six-months duration whereupon not only the public television media but also the other media would be responsible for projecting the kind of enlightening, down-to-earth, hard-core, straightforward, no-holds-barred, programs that would delineate the magnitude of the problem, the inception of the problem, the community perception of the problem, the police department's perception of the problem, and more toward solving the same.

Finally, one ancillary suggestion. I would say each community should involve itself in the establishment of a non-profit agency that might be called a community concern, and that this agency would pledge itself to working with the Community Relations Service of the Department of Justice.

The object of the agency on each community level would be to form a national network which would feed data, reports, and complaints into CRS, so that this data could be collated by CRS, disseminated in a yearly report, so that all of us who are at opposite ends of the country and at various and sundry places could be privy to the information that comes out of a place like Port Arthur, Texas, or San Jose, California, that we would not otherwise hear except by virtue of invitation to attend a conference of this nature.

Ruben Sandoval

I think this will be my seventh conference on this subject, and I do not, for one moment, detract from the value of what conferences can do, but I will be honest with you, I believe in what Mr. Jordan said yesterday, that as you and I meet here to talk about the problem, to highlight the issue, something that we all know—some of us do not like to admit it—is that while we are doing this, somewhere in this country someone is lying shot. Perhaps that may be emotional but it is the truth, a truth that has taken us years to understand, so I am of the feeling now that we have had conference after conference, and I submit to you that those conferences didn't help Jackson in Houston and Lozano in Odessa recently. It didn't help a lot of other people. I could go on, but you are welcome to draw your attention to the chart up there that will give the names of victims. And so I propose to you that while highlighting the problem, it is very necessary for us to be here to deal with the problem. I hope that many of us don't leave this conference thinking, "I have participated and that makes me a little more righteous, a little more civil-minded, and I am going to go back,

and it is a plus on my record," and beyond that nothing is done. And that the next time we have a conference with other participants we will be talking not only about the problem again but about additional victims. So I want you to think about that.

I usually like to get very graphic in what I say, so I would like to show you pictorially (indicating a slide presentation) just what Mr. Jordan was talking about. There, my friends, is what we have been talking about, Ricardo Morales of Castroville, Texas, shot under the left arm and buried like an animal in three feet of dirt because they wanted to "preserve the evidence and come back and use it later since clay is a good preserver of evidence," or so they said as a defense.

Then we have 12-year-old Santos Rodriguez, in Dallas, who, because he is Hispanic, was arrested. There were two officers involved, and they were going to interrogate him and get from this hombre a confession to a filling station burglary.

Now, how many of you know of any state law or any policy that allows for the interrogation of a 12-year-old at the point of a loaded 357 magnum? I submit to you there is no such policy or state or federal law. However, there is an attitude that allows it, and this is what I would like to address myself to later on.

This is Larry Lozano in Odessa, Texas. I want you to look at those pictures long and hard because I want you to understand that man committed suicide, or so they say, and, believe me, I am going to demand of the law enforcement people in this room that you believe he committed suicide because that is the same thing they are trying to do with us as a community. And if we must be forced to believe it is a suicide, then you should be able to believe it is a suicide.

Now, like I said, if we as minorities—as some of you call us—must be forced to believe that it is suicide, you must believe it, too. Forget reason and common sense. Believe it. We are made to believe it because nothing is being done anyway.

We are supposed to talk this morning about options to communities. Well, let me address it as options to both sides, to law enforcement as well as communities.

How about the option? To begin with, it is very simple, not very complex, not very perplexing: self-respect, respect for others, respect for people who happen to be of a different color than you.

Now, somebody who addressed you earlier said that perhaps police departments or police units are minorities, and I submit that you are minorities. But how would you like to be addressed throughout your life as minorities, as a gathering of predominantly "Dagos," or predominantly "Wops," or predominantly "Krauts." I know you don't want that because that is demeaning. But it is just as demeaning when we are designated as "tamale vendors," as "greaseballs," as "tacos," as "niggers," and "coons." There is no such thing, so if we are going to talk about options, let's talk about the option of respect. That is very simple. Respect. Remove from your vocabulary such words as "nigger," "coon," "greaseball." Think of people in terms of Americans who may be different from you but Americans nonetheless, first and primary.

And why is this important, this nomenclature? It is very important because, it shows a disdain for a person of a given ethnic background that will be reflected in conduct.

It is no mystery that a unit of police officers comes into an area that is affluent and their conduct is one type, and then go into another area that is predominantly black or Chicano or low-income, their conduct is totally different. Why? Because they know their accountability in the affluent area is very high whereas their accountability in the "cockroach" area is very low. They can get away with it. And why can they get away with it? Because of attitude. As I told you earlier, for a minute those two officers pointed a loaded gun, a 357 magnum at that child. They knew they could get away with it, and they have been getting away with it.

Going back to what Mr. Jordan said, keep in mind that, as we talk, what you have seen has been going on, and it is up to you and me to stop it because the people in the barrios and ghettos don't understand the complexities about psychologies, psychological testing, policies, and the rest.

They don't understand anything except the blunt end of a night stick or the end of a gun. That is what they understand, and while we may talk about fine points as to where there is or is not accountability, or is or is not reason to believe there has been a violation, to the recipient of that violation it is very real. And the blood that trickles from his head is very real, and we must place ourselves in their situation to understand what we have to do here today.

You know, some officers have asked me, "Well, what about the situation where you have a suspect who has shot someone, committed some kind of crime, is running away, is in a dark alley and so forth, and he reaches for something?" It's the old story that he was reaching for something and gets shot five or six times or more. What about those circumstances where it turns out that the person who was shot had nothing in his hand?

I said my answer to that would be very simple. If you had developed trust, respect, cooperation, understanding from your community, you could easily deal with it because they would support you, whether you believe it or not. They would support you if, indeed, it was an unfortunate situation, if there was an accident, if it was something that could not be helped. They will support you.

I said but, you know, the community cannot at this point because there is the buddy system in the police department, and what happens is like Tony Canales referred to it. An incident occurs and regardless of the wrongfulness of the officer, the police are like mother hens and embrace each other, and that complicates the problems. You know, it is ironic. I was also addressing myself to that at the recent conference in Fort Worth, and I said, "You know, when you develop this mother hen attitude, what you are going to do is further infuriate and polarize the community people, and there is going to be confrontation, violent confrontation, because when people find no relief through police-community relations groups, no relief through the court system perhaps, no relief of any kind, it is very frustrating and they will take out those frustrations in the

streets. If that is what you want, fine, keep on with the mother hen idea because that is hurting."

There is also the story of San Antonio, where Julian Sanchez, a Mexican, decides to go to town. He is very upset because Jose Santoras was murdered. I have got a lot of pictures over there. Not only was he murdered, but notwithstanding Tony Canales' effort and the Justice Department effort, nothing was done, and Judge Sterling almost laughed at everybody and said, "Hell with you, I am going to do what I want," and he does. So the murderer gets one year, one year for the loss of a life.

And I know many of you, in fact most of you, are enraged and do not support that concept, but what I don't know is how many of you have gone public and said, "Hell, that is wrong." It is always just a few of us, the so-called minorities, the so-called militants, but you need to do that because you can see a wrong as well as we can. Then we want to know that you are out there, and we will support you in those situations like the ones mentioned to me. But we also want you to support us when you know you have bad apples, and that they have done wrong. Do not embrace them. Let's put them on trial either administratively or judicially and move them out.

You know, the end result in that story I mentioned was that Sanchez shot four cops. He didn't kill them. He wasn't too good a shot, he shot four of them and died in the process. We are not supporting what he did. There is no way, but the reason I mention the story is because he, like many others, was so damn frustrated that he found a way to relieve his frustrations: shoot back. Now, will Judge Sterling bear that responsibility, with his fine robe, up there thinking he is so righteous? No, we as a community bear that responsibility, you and I, so we have got to address the problem and look for the solution ourselves.

I do not share the optimism that was expressed yesterday about prosecution and so forth. I think it is so much malarkey. I cannot say that about Tony Canales because his unit, which was one of the first units created, has been very active, and it is also no accident his name is Canales.

I know that prosecution is not the sole answer, but I know one thing and I am convinced you know. Many of you have been talking about how to deal with unions and how to deal with organized officers. You know, I am still of the belief that the attitude at the very top will be reflected in the practice and the conduct at the very bottom. If those officers at the bottom who walk the beat know they will not be embraced, not be taken in and covered up as much as possible, they are going to have second thoughts before they do what they do. Now, that goes back to attitude. When you hear an officer use the word "coon,"—"I am going to do something about this coon, this nigger"—that expresses an attitude, a callous disregard for a fellow American, a fellow human being. What makes it dangerous is that one of the actors has the ability, the legal authority to use the gun to enforce his sentiments, and the other one does not—unless he takes it upon himself such as Julian Sanchez did in San Antonio.

So I will close by telling you this: If you want to talk about options, remember I started with the word "respect." How about understanding the so-called minorities as against suspicions, as against feeling that they are subversive because they happen to disagree with you? How about that as an option? It is very simple.

How about the option of being honest and objective in what you do when you conduct your investigations and not leading people to believe because of your secrecy that it is a cover-up, a whitewash? How about those options?

How about the option of trust to believe that when someone comes to you and tells you an officer beat the crap out of them, it is very real to him or to her. Those who are recipients, believe them. Don't assume automatically it couldn't be true because you know the officer and he is a nice guy. We are all nice guys, but we all have degrees of temper that can explode at any time. Believe, trust, I submit to you that if you do that, you will begin to understand and see that we, as the community, do indeed support you. We will support you all the way when you are right, and we expect you to support us all the way when we are right, and there have been many given instances when we have been right, but there has been no relief. Think about that.

Rev. John Adams

In a recently-issued government publication, there is a typographic error which inadvertently offers a clue to the basis of the extraordinarily high tension presently existing between law enforcement personnel and citizens in certain sections of a number of American cities.

A police chief is quoted in the publication as saying, "The problem in American cities where police officers have often become involved in rather unimportant incidents—traffic stops, intoxicated-driving arrests, such as in Watts—are covered substantially by rules and by procedures, but until the police officers share a philosophy that human life is *scared* (underlined to identify error), that they are professionals, that their job requires professional standards, and until that police code of professionalism is perceived by the minority communities, we are going to go on having hostilities and complaints."

It becomes obvious upon careful reading that two letters were transposed and that the word "scared" was meant to be "sacred," thus emphasizing the importance of police being committed philosophically to the sacredness of human life. These two words—sacred and scared—surely point to problems related to the use of deadly force by the police.

It is recognized that within the communities there is a very real fear of crime—a fear of being victimized by those who engage in crime whether as a business or as a personal tool of survival. Yet those persons most vulnerable or susceptible to being victimized are plagued with another fear; namely, a fear of the police. This fear is rooted in an unclear perception concerning the priority which the police give to the principle of the unique value of every human life. There is an awareness of the high value police place upon the lives of those involved in law enforcement, for this belief is dramatized from time to time, especially when an officer has been killed in the line of duty. However, there has been inadequate confirmation within

the minority communities that the police are engaged regularly in protecting human life, saving human life, or in the avoidance of injuring or destroying human life. In some communities citizens are literally scared of the police, but there may be those who would argue that this is a condition that should be maintained, for the fear of the police is a necessary and useful instrument in preventing crime and in protecting the lives of officers. Such an attitude of fear, it is suggested, can deter persons from engaging in crime because of the heightened concern for the risks involved.

However, when those who are law-abiding convert their respect for law enforcement into a fear of the police in general, there is a net loss of support for the part of the criminal justice system which depends most heavily upon citizen cooperation for its effectiveness. When the public—or even a segment of the community—is scared of the police, there is a serious problem.

It was surprising and disquieting to see citizens, considered to be law-abiding, not long ago, wearing buttons on their lapels which simply said, "Warning: Your Local Police Are Armed and Dangerous." Whatever the conditions which brought citizens to the place that they would display such a motto, it constitutes a danger both to the community and to the police who have the responsibility for enforcing the law and maintaining order. A lack of respect for the police and tension within the community ought to be a concern for everyone. The reduction of tension and raising respect for the police should have the highest priority.

It is a well-known fact that respect and support for law enforcement in the community can be rapidly changed into fear and anger when the unique value of human life is seemingly violated by the killing or wounding of persons by police under highly suspicious circumstances, where there seems to have been little, if any, provocation, and where the use of lesser force could have achieved the proper law enforcement objective. As we consider the reduction of tension and the lessening of conflict within the community, we must be especially conscious of this factor.

The truth of the obverse must be equally considered. A reduction of trust within the community based upon a fear of the police is one source of increased stress for those involved in law enforcement. Policemen and policewomen may not often admit to their peers, or even to themselves, that they are "scared," to use our transposed word. Yet a climate of distrust within the community, reinforced by personal experience or by departmental incident, can become a primary factor in police and citizen contact. A climate may be created in which it is fully appropriate to be apprehensive.

Just as citizen cooperation with law enforcement is reduced when the fear of police conduct is prevalent in the community, effective and humane police response is affected by the level of stress among law enforcement personnel.

In our day we have become especially aware that tension within the community, as it relates to the police, is directly tied to the use of deadly force by police, whether in some recent event or in a series of past incidents that are well-remembered within the minority community. Community tension and police stress cycle and recycle themselves, surfacing in threats and counterthreats, often erupting in acts of violence by citizens and sometimes provocative and/or illegal conduct on the part of the police.

It has been noted that in American law enforcement the firearm is particularly important. It is a primary tool, although rarely used. No other piece of equipment represents the police role more than the firearm. It essentially symbolizes the authority of the police and is prominently displayed to communicate that authority. The firearm commonly distinguishes the police officer from a citizen even more than does a badge, for many citizens carry credentials which represent greater civil authority than a badge, but none has greater official power to make actual life-of-death decisions—with immediate and far-reaching efforts—than the officer wearing the gun.

Since this characteristic is such a distinguishing one for law enforcement, it may also constitute an officer's self-identification. Consequently, when the community challenges the use of deadly force by the police, it may also be touching painfully close to the source of self-esteem within the law enforcement profession. The firearms policy of a police department, then, becomes especially important, for it, unlike other policies and regulations, relates to a self-identifying core. It is my thesis that a significant source of stress within law enforcement, centers around the policy for the use of deadly force. deadly force.

The Report on Police of the *National Advisory Commission on Criminal Justice Standards and Goals* notes that, ". . .other than the broad language of authorizing statutes and occasional imprecise court decisions, police officers receive little guidance regarding the matter or amount of force they are to use." Those firearms policies, which at best are overly broad and purposely vague, or at worst are ill-defined or nonexistent, may, upon the surface, offer protection to the governmental jurisdiction, but they become a source of stress and may provide little help to the officers who must apply them.

Furthermore, the lack of guidance in the use of firearms comes into conflict with the significance of firearms as symbols of authority and as sources of personal and professional identification. Even within the *Report on the Police,* little attention is given to the clarification of the policies which should govern the use of firearms. Far greater importance is placed upon the specifications for firearms and ammunition, programs for the regular inspection of equipment, firing practice and qualifying scores. Only two sentences are devoted to the issue with which we are concerned here today. One of them says, "Although proficiency in the use of firearms is important, emphasis must also be placed on training every officer *when* he may shoot." (Italics added for emphasis.) Rather than a criticism of the report, our comments are made in recognition of the reality that police are ordinarily better trained in *how* to fire their weapons than in *when* to discharge them.

Indeed, there may be legislated statutes and written policies, but their provisions, even if clearly stated, are not sufficiently reinforced through periodic training to provide functional

guidance in the split-second decisionmaking situations to which frequent reference is made by the police. A level of stress is caused by this lack of reinforcement. In order to relieve such stress other factors come into play which may well determine when the firearm is used within the community. These may include informal signals from within the command structure, subtle pressure from one's peers, statements by representatives of the police union, political pronouncements by officials of governments, the latest perception of what the public demands or condones, and any verbal or actual provocation within the community.

When the police, as professional decisionmakers, draw upon these varied sources of approval, policy actually is made on the street, and this will either increase the level of tension within the community, intensify the stress upon the officers, or both. These may further endanger the community and further jeopardize the officers themselves.

One of the ways to reduce tension in the community then, is to give greater clarification to the policies which govern the use of firearms, and to provide regular training through which policies can be assimilated by those who have the responsibility for effecting them. These are actions which need to be taken within every local agency or department with the fullest possible participation and cooperation of representatives of every part of the community.

Yet the problem related to the use of firearms by the police is not now merely a problem for local communities. It is a national problem and calls for a response from a level of government that includes all of them. In the future it will not be enough to deal with isolated incidents in separate local communities. It will be enough to give attention to the problems related to the use of deadly force within a given state. The lack of guidance in the use of firearms is sufficiently serious to require a more direct involvement of federal government agencies.

Within the minority community there is a sharp awareness that the problem is national and requires a national response. The initiatives of the Civil Rights Division of the U.S. Department of Justice in litigating deprivation-of-civil rights cases, constitute such a response. The hearings conducted in Philadelphia and Houston by the U.S. Civil Rights Commission are part of such a response. This consultation, itself, is part of such a response.

Yet more is needed. It is time to recommend that the U.S. Department of Justice, through its agencies, formulate a model policy which would define those situations in which force is considered necessary, clearly state alternatives to the use of force, and call upon law enforcement agencies to restrict the use of force to an absolute minimum amount necessary to achieve appropriate lawful police objectives. The policy ought to be written, not only in consultation with law enforcement associations, but with the full participation of national organizations that represent constituencies most affected within local jurisdictions across the nation. Particularly, those minority communities that are most sharply impacted by the firearm policies of police departments should be adequately represented. When such a policy is formulated, a concerted effort should be made to publicize and promote this policy across the nation.

This is in no way to suggest the establishment of a national police force. It is rather to recommend that every legal authority and every appropriate influence be used by agencies of the federal government to facilitate the formulation of a firearms policy which would have the backing of local law enforcement and which would evoke the support of every segment of the community.

Secondly, tension can be reduced within the community if there is a more open recognition of the problem related to deadly force by the officials of government. This would be a response to the sensitivity of the minority community to this issue. It would also be a means by which the larger community could be accurately and responsibly informed, thus providing a broader base of support for the changes which a professional appraisal might deem necessary.

We here today should recommend that statistics concerning the deaths of citizens caused by the police be a part of the Uniform Crime Report, which is published annually by the Federal Bureau of Investigation. Although this information may presently be available, it is not published in a form or discussed in a forum which sufficiently permits the larger public to be aware of the nature or the extent of the problems that exist. Nor is adequate assurance given to the minority community that there is recognition by public officials or the larger community of the problems they experience.

Presently, a careful analysis is made of the situations in which law enforcement officers are killed, as rightfully there should be, for this is a critical problem about which the public should be informed and on which there must be a concerted action. Yet, if the cycle of fear, dangerous as it is both to the community and to law enforcement, is to be reversed, if the level of tension is to be reduced, if the stress of police officers is to be relieved, there must also be given attention to the circumstances under which citizens are killed or wounded by the police.

Some of the factors which need to be analyzed, and for which additional statistics should be reported in the annual Uniform Crime Report, are the following:

1. What type of officer-citizen contact was initially involved? What complaint was made? Made by whom?
2. What type of force was used by the officer? What weapon was used?
3. Was the citizen armed? Was a weapon found?
4. What day of the week? What time of the day? Was the officer on or off duty?
5. What was the age of the citizen?
6. Did the suspect have any history of mental illness? Was the history known to the officer?
7. Had the officer a history of using excessive force? If so, had he been provided psychological testing, and/or counseling for the job-related stress, or the personal, emotional or physical problem after his behavior pattern became evident?

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8. What was the race or ethnic background of the citizen? The officer?
9. What is the police firearms statute of the state?
10. What is the firearms policy of the department?
11. If the citizen survived, was a charge of crime made against the suspect? Against the officer? And if so what charge? If not, why not?
12. What was the action of the internal affairs section of the agency? What was the final investigative disposition of the case? Suspension of the officer, referral, justifiable homicide?

One may appear naive in believing that this information would be reported or published, but if we are serious about the reduction of tension and the lessening of conflict within the community as they relate to the police, then we ought to call upon the 15,000 law enforcement agencies of the nation to cooperate fully with the Federal Bureau of Investigation in providing such statistics on citizen deaths by police intervention. This would be most useful in taking steps towards restoring community confidence through more effective law enforcement administration. They may well help to bring those changes in policy which would not only inspire greater community cooperation but would also reduce levels of stress within police departments.

All human life is sacred. When a commitment to this basic premise is shared by the police and the community, there will be less danger to both the police and to the community, and there will be better protection for all.

Steven White

I prepared an address to you a few weeks ago. In discussions with some of the members of LULAC and also in conversations with legislators in Sacramento and a number of prosecutors in California as well as in other states. I have traveled through most of the states and looked at many of the prosecuting offices and have been involved in the investigation of these kinds of matters in the past, and I speak to you with some credentials in the actual investigations of police shootings and police use of excessive force as well as from a legislative perspective in terms of what might procedurally be done in this area.

I want to talk about community involvement by using some existing institutions in government. One of these institutions is the prosecuting officers. In every state there are a number of prosecuting officers, and all of them are starting at a local level and go to a state and then a national level. There are overlays of prosecution offices so that when the prosecution office drops the ball or handles something inadequately, for example, police excessive use of force, it can be dealt with through this fail-safe structure.

I want to talk about a program we have developed in California in some communities. Many counties in California have adopted this, and some counties in other states have adopted it. In Los Angeles County, the program deals with only portions of the county, which has roughly eight million people, and a number of citizens in addition to the unincorporated county area. We have worked out this program with certain police agencies. But I want to make some suggestions that would apply to California and other states.

First of all, I would proceed from a few investigatory axioms. The first is that you cannot ever investigate yourself. It is absolutely impossible for the president to investigate the president, the legislative branch to investigate itself, the executive branch to investigate itself. Accordingly, there should be some mechanism, some agency, immediately responsible to the people where some question of investigation is raised. And in some of the communities that I have talked about, where we have set up these programs, we have provided that whenever the police were involved in a shooting or other excessive use of force, whether or not a death resulted, the case was automatically directed to the District Attorney for the D.A.s to investigate.

I do not offer this as a panacea or something that will solve all of this problem. There are attitude problems and spinoffs in this area that must be dealt with independently, but I do offer it as an institutional means to deal with a very serious problem both in California and across the country.

One of the problems in setting up these kinds of programs, to this point, has been that police agencies do not want the D.A. to be involved, and they do not notify the D.A. when there has been a shooting, or excessive force is a possibility.

Secondly, there have been in some communities a question of distrust relative to the rule of the D.A. vis-a-vis the police agencies. Is he a brother policeman? Is he, because he is part of the law enforcement, going to do the same thing that a police department would do? I will tell you in many communities that may not be the case. I am not sure in some states some D.A.'s wouldn't cover up for the police. I can tell you what happens in some of the communities where we have set this up, and I can tell you what, through LULAC in your respective states, you can do to make this system not the entire solution but a step in the direction of a solution. You can provide through legislation that, at every point where the police are involved in a shooting or when there is a question of excessive use of force, that not only is the case *referred* to the district attorney, but that the D.A. is advised of that matter immediately. I am talking about within moments after it is reported to the police. In other words, the D.A. would be notified when that report comes in over the radio that there has been a shooting, and it is essential, in my judgment, for a good investigation that this be done. And we, in these communities that I am telling you about, do this.

They roll out a unit at that time consisting of a Deputy D.A., who is an experienced trial attorney, as well as an experienced D.A. investigator. In California there are about 72 levels of police force, 72 kinds of departments, and they are statutorily accorded certain police powers. There are no police agencies which have powers that exceed the powers of D.A. investigators.

A D.A. investigator can come into any community within their county and assume jurisdiction or assume investigatory powers over any offense, whether it is in the penal code in California or in the health and safety code, whether it is directly within the purview of some other particular agency, the

highway patrol, fish and game, or whatever. The D.A. has the authority to come in and work that investigation.

They do not have the authority to simply go in there and direct the other investigating agencies out. I am not necessarily suggesting that should be done, but I do suggest in the area of police shooting, because the D.A. has experienced investigators on his staff who can go in immediately and undertake the responsibility, the full and total responsibility for the investigation. The person immediately supervising that investigation should not be a member of the police department which is under question, should not be a member of the sheriff's office which was involved in the shooting. That is just essential as a bottom line for this kind of an investagation and to assure that it is handled in a fair and completely comprehensive fashion.

I think in order to do that you have to have legislation that provides that the police, or the sheriff or whoever is involved in that initial shooting, direct the news, direct the information of that to the District Attorney. I don't think that you can leave that to the discretion of those local agencies.

In some counties, some of the police agencies go directly to the District Attorney from the beginning. Some will wait a week, some will never refer the case to the District Attorney. I think in every case where there is a possibility of criminal charges—and in my judgment that is every case where there is a shooting—the case should automatically go to the D.A., who will then assume full jurisdiction over it and will have, presumably, the cooperation of the police agencies in providing all of the reports and so forth.

If they cannot get the cooperation, they can obtain a court order to obtain those records. I think the D.A. is ideally situated to handle that responsibility for a number of reasons. For one thing, in California as well as the other 49 States, the D.A.'s responsibilities transcend simple, pure law enforcement, in the sense of just going out and catching criminals and convicting and locking those criminals up. It transcends that because they have an ultimate responsibility to assure that justice has occurred—whatever that means—and whatever their accountability involves depends a lot on the community.

So what I suggest to you is that after a full, very comprehensive, thorough investigation is completed, that a full report be made, that the elected District Attorney of that county stand behind that report, that he make a recommendation, and that if a complaint or indictment is appropriate that he initiate that complaint or indictment and begin the prosecution.

In all such cases it is essential, I think, that a full airing of that report be made through the press and other media. That report must be made available. I am not talking either about the conclusions of the report or about the recommendation that the District Attorney is going to adopt; I am talking about the full report, every single page, whether a thousand pages or ten-thousand pages, should be made available to the press.

These are my views on it, and this can be more fully tuned in terms of having community boards work with the D.A., dealing with the report, or have a hearing on the report or involve the grand jury, or whatever, but the axiom upon which this is premised is: No agency can investigate itself. If the attorney-investigator is involved in the shooting, then the Attorney General's office or some like agency should handle that investigation.

J. A. "Tony" Canales

Conflict reduction in all of these situations—my experience has been—can only be achieved if a federal institution comes into the picture and announces very coldly, very boldly, very firmly, a few or a couple of words, just basically tells the media that the U.S. Attorney's Office of the particular district will investigate the matter if any wrong-doing is done. And if it is uncovered, the U.S. Attorney's Office will prosecute; if there is none, they will not prosecute.

You can talk about police until you are hoarse. You can talk about all other kinds of nice police relationships. But basically nothing is going to bring the attention of anybody else except when the federal government comes marching down the hallway with a grand jury speaking.

I have had the opportunity—it is not a good pleasure—as a law enforcement officer to question police officers in grand juries, to question police chiefs, to question sergeants. We have a large series of indictments. This week we had a Mexican-American chief deputy sheriff plead guilty in Laredo, Texas, as to a civil rights indictment.

We have, indeed, Mexican-Americans, a deputy sheriff in Star County, U.S. Customs officers, deputy police chiefs in Houston, police officers in Houston, supervisors, and all of these fellows. Really, all of this nice rhetoric goes out the window unless you have some firm prosecution.

How is that a tension relief? Well, it is a tension relief only if you in your area know the system works. You have to go talk to the federal prosecutor. I am a firm believer that many times the local D.A.'s might have the best intentions in the world but because of their close proximity to the police officer, because of the closed testimony situation, because they live in and out every day together, that many times—even though they have the best intentions—investigators will not give credence to a lot of the testimony that is given. And this reminds me also of the situation as to how the investigation is handled.

You have to go talk to your federal prosecutor. You have to remind him that he is chief federal law enforcement officer for his district. A part of his duties as chief federal law enforcement officer is to enforce the federal civil rights statutes and you must tell him that you understand that the law is, unless a person actually dies, it might be a misdemeanor, but you understand that. You understand that he might have an ego situation where he does not want to employ a lot of his resources to prosecute a misdemeanor. But that you understand that the vindication of civil rights in this country is of the greatest priority, and that it is not your fault that the Congress of the United States decided to attach a misdemeanor penalty provision to conviction on civil rights violations, but the punishment is not a matter for the prosecutor.

His duty is to go forward and prosecute. You have to remind the U.S. Attorney that he took an oath, and you have to remind him that if he does not want to do that job, you can call the Assistant Attorney General in charge of Civil Rights Division—in this case, Drew Days—and ask him to send people down there. You have to remind him of these things because, many times, federal prosecutors will go ahead and say, "We will let somebody else do it." And that is a big step in reduction, because if anybody in this country has come forward to vindicate the civil rights of people, it has been the Department of Justice.

The Department of Justice has gone forward in cases where it has not been popular to go forward. The Department might be criticized and we might have our faults, but I can guarantee that our heart is at the right place, and we will follow due process of law in the investigation of anybody. And for that reason I differ with my colleague from California in that I would not release any report to the public unless a grand jury returns an indictment, and the indictment itself is a report.

We must also assure ourselves that, in the pursuance of civil rights enforcement, we do not violate the civil rights of those officers who perhaps are caught in a situation that is explainable, that perhaps was what is called a righteous shooting. I am from Texas and if somebody aims a gun at me, I will tell you one thing, I am going to shoot them first, and in the face of that situation you might do the same thing. So we have got to be right on both sides, but at the same time the tension can be relieved, like we have relieved it, I believe.

We have a case right now in Houston, the Reggie Jackson case. We informed the community that we will be looking into the matter even though we are criticized by the local D.A., local attorneys, and everybody else, who say, "Give the state a chance." We don't have a monopoly on investigation; neither do they, so we went forward.

We have been criticized for moving too slowly, and in other cases we have been criticized for not moving at all, but, of course, the issue being the reduction of tension, we have had experience in our district with riots. We had the so-called Moody riot. We have a situation right now in Seadrift, Texas, where some Vietnamese refugees were involved in an altercation. They shot a local fisherman. They were tried in Seguin, Texas, Guadalupe County, and they were acquitted.

Tensions built up. The Klan started to move in. The Community Relations Service did an excellent job. We instructed them not to talk to the Klan, to go talk to the local people, call everybody down there. We made an announcement that we were going to respect everybody's civil rights, and we were going to go forward and check into it.

The main thrust of this short talk to you is this: That you must have an understanding as to what the system is today, not what it should be, not what it ought to be, or what committees ought to exist, but what it is today. If you have a problem tomorrow, how are you going to handle it? You go back and talk to the U.S. Attorney. There is one in every state. You ask him to do his duty, and if he refuses, pick up the telephone and call Drew Days. He will do his duty.

We have certain guidelines. For example, we do not, in our district, allow FBI agents to investigate matters where the FBI agent himself has been a former police officer. Most communities will not allow FBI agents to investigate civil rights matters because it is a small community, but in large metropolitan areas, the Bureau or its agents don't really know anybody. But if that Bureau agent was a former police officer, you don't want that agent investigating your case. You want to be fair to the accused, to the victim, to everybody and you have to let the chips fall where they may.

I have a strong position to advise you not to push too hard on internal affairs. I have found out that internal affairs gives the prosecutor—me—down the line, more problems than anything else.

You have to understand that even the police officer has a conscience. You can put too much pressure on internal affairs so that internal affairs goes out there and makes the police officer say something he is not supposed to be saying under threat he is going to be fired.

You have a remedy. The remedy is the U.S. Attorney's Office. Go to them. Ask them for help, and I have the assurance that they will respond. And if they do not respond, I will guarantee you a little letter to the Attorney General will get them off their cans.

QUESTIONS AND ANSWERS

Question: I would like to direct my question to Mr. Sandoval. We had an earlier conversation along this line. He mentioned my city (Fort Worth, Texas) a minute ago in his speech. I would like for him to explain why he felt those incidents that he had a part in investigating did not inflame the community?

Sandoval: O.K., Chief, in one of the instances, a Mexican-American was shot and killed at his house. There was an uproar on the part of the community, but upon further investigation we learned that there was an exchange of gunfire, that notwithstanding the possibility that an officer may have been shot in the exchange by another officer, there had been an exchange on both sides. And in that encounter, there was one dead officer and one dead citizen.

People were very enraged when we came into it, but afterwards we were able to receive a lot of information, to learn that indeed there was an objective and open inquiry made. And when the facts were laid out, they showed that there was perhaps an unfortunate situation but one that permitted at least inquiry and dissemination of the information as to the outcome of that inquiry. That is what happened. Consequently, there wasn't any riots, and there wasn't any demonstrations. Now, I am not against riots and demonstrations perhaps because I have been involved in demonstrations and have been in jail myself.

Canales: You are against riots? You have got to be.

Sandoval: As long as I am not a participant. What I am saying is that that proves the point, that if you have openness instead of all this secrecy, and if you really can be objective and

you let the person know what you are doing, let those who come to you with the complaint know what you are doing, let them know that you have been objective about it, that you are not covering up for the officer, and that there is some sense of help instead of helplessness, you will be surprised—like I said earlier in my discussion—that there will be support from the community like there was in Fort Worth in that incident. Initially, it was something that gave grounds for a lot of trouble and, again, riots and marches, but after the whole matter was investigated from all sides, it turned out that there was no need for it. At best it was an unfortunate incident, and this is why I am talking about trust.

Do you have the people who could perhaps believe that there could be some objectivity in the police department in their investigation and, consequently, the result of that belief was that the truth came out, and there was no need for any further concern about that particular incident?

I suggest to you that you do it over and over. In my prior talk I did not say something I meant to say earlier, and that is I am a strong believer. Tony talks about prosecution, and I believe in that. But we are talking about policy and regulations, and as long as there is no enforcement of those regulations or as long as there is lax enforcement, then you might as well not have anything.

Question: Many of us are very concerned that there has been repeated violations and circumvention of the Constitution. We hold the federal government as the watchman, yet the permissiveness that it has allowed throughout the country has contributed to the peril of killings and deadly force. Why is it that we have to have 23 unarmed blacks and Hispanics killed in Los Angeles in order for the Justice Department to come in?

Sandoval: Maybe this one should be for Tony, but I don't step away from it. Let me tell you one thing, if you begin to look at human rights, there are two sides to human rights. Human rights as a practice and a genuine concern for your fellow brother and sister, that is the one that is least enforced. Then there is human rights as a political philosophy, as political expediency, and perhaps the reason that it took 23 or so to get the thing going is not so much because the circumstances did not merit involvement, but the politics of the time may not have been necessarily kosher to get involved. I am very much convinced that the more politics you have the more justice, the less politics the less justice. My proof lies in the fact that we lost the Santos Rodriguez case not because the case wasn't meritorious, not because it wasn't right, and not because it cried out as a violation of civil rights and human rights, but because we didn't have the political clout.

Question: The reason I asked you that question, sir, is because it appears that many police forces throughout the country are operating outside of the Constitution and using Gestapo tactics rather than under the provisions of the Constitution. That is the reason for my inquiry.

Sandoval: If we may continue with the other questions, maybe we can take this up in another workshop.

Question: My question is directed to the U.S. Attorney from the Southern Texas sector. There was a suggestion earlier that public disclosure, in terms of cases where a question has been raised, may relieve some of the anxiety or tension on the public, which has accepted and inferred impropriety. I can respect the need to protect a police officer's reputation, especially prior to any kind of legal proceedings if, in fact, one is to be forthcoming. But what is your major problem with the disclosure once an investigation has been completed, even to the extent of saying that it will be made public if, in fact, the trial proceedings happens to take place first?

Canales: There are two ways to conduct the investigation. One is to conduct it by way of what is commonly called summary presentation to the grand jury. That is for the investigator to interview everybody involved, and the investigator comes back to the grand jury and tells the grand jury, "Listen here, folks, this is what so-and-so told me. A told me that and C told me that." Under those circumstances, you can divulge knowledge. You can report to everybody if you want to. Most of those situations, and every one that I have seen, resulted in no indictment or no effective presentation of the matter to the grand jury.

Question: I think my question is a little more fundamental than that.

Canales: The way I handle mine, I bring everybody before the grand jury. I bring all of the witnesses and, under the secrecy of the grand jury. The grand jury is composed of ordinary folks from the community, and they can go ahead and hear the matter.

Question: I want to point up an inconsistency that I thought I heard you say. Initially, you said when the internal affairs unit, which has the initial responsibility for conducting the investigation, if they violate a police officer's rights by causing

him to answer questions under administrative rules, they could jeopardize the case.

Canales: That is right.

Question: There was a suggestion earlier that an outside agency conduct the investigation. You have to depend on the internal affairs unit for your own information as it relates to your investigation.

Canales: No, I do not. I talk to nobody.

Question: I have filed many complaints with internal affairs and I am suggesting to you that maybe somewhere along the line you may see a need to reevaluate the method by which you gather information from local agencies because if the impropriety remains in the minds of the public even after you have made a decision, I suggest that perhaps you haven't given any relief to the community, which you try to elicit in carrying out law enforcement responsibilities.

Canales: I have been on the job three years, and I have never gotten once a referral from a police agency.

Question: I hope I am not the only person in the room who thinks that Tony Canales may be correct from his perspective as Texas U.S. Attorney in terms of whether or not he can establish relationships of trust and confidence in local police and District Attorney's agencies, and also that the District Attorney's representative from California may be correct in saying that at least in some District Attorneys' offices in his district, trust and confidence can be established.

As U.S. Attorney in Oregon, I do not feel that it is appropriate for me to make a blanket rule as Tony has apparently made that there is no local District Attorney or police agency that can be trusted to investigate without a race to the witnesses and a race to the courthouse.

On the other hand, I have enough respect for what Tony has done in Texas—and that has made a deep difference in that community—so that I have to respect his viewpoint about his function. But I think we should all remember that while we are here at a national conference, that doesn't gloss over the fact that there are vast differences of regions and localities in this country, and that U.S. Attorneys in different areas may well feel it appropriate in their communities to help build up confidence in those local agencies by encouraging them to do a good job in these matters.

Question: You addressed the question. The public safety man from Newark said he believes—and I am paraphrasing—that grand juries are not a viable vehicle to indict. Would any of you U.S. Attorneys care to respond to that, and this is from a police officer?

Moderator: Repeat the last part of your question.

Question: Hubert Williams said grand juries are not a viable vehicle to indict in a police shooting. I was just wondering how the attorneys respond to that?

Canales: As I said, every area is different. I use them exclusively. I feel that in the federal system each state is different. In the federal system we pick our jurors at random from the voter registration lists. We have all kinds of people, and I work exclusively with grand juries. If I am going to lose that lawsuit, if I cannot convince 12 jurors out of 23 that there is a violation when there is no lawyer in there for the defendant, no judge in there, and I am almost in complete control, if I can't convince those folks, I don't have any chance of getting a conviction. So if I am going to try that case, I am going to try it before the grand jury with the citizens there. It is a good feeling. Ninety-eight percent of all of the cases we get in the Southern District of Texas, we dispose of by grand jury, virtually all of them.

Question: I have a question for any of the panelists, from San Diego. We are under surveillance 24 hours a day by helicopters to keep out alien Mexicans. Officers come down to your homes and to school grounds. Immigration in our area stops mothers, American-citizen mothers, and children on their way to school to ask them for their nationality papers.

In my area a helicopter was shot down with rocks it came down so close to the citizens, just three weeks ago. I don't know if any of you heard about that. I doubt it.

In my area four aliens were beaten up and brutally tortured, and it came out in the *Washington Post* that the people who did it were acquitted. You may want to read that today here in Washington.

But my concern is this, that in my area there is propaganda going on now in the media, such as the Sunday paper, saying that there are about 2,000 members of gangs, Chicano gangs, in San Diego. Looking at a picture, very quickly you see two people with guns, but these are Iranians because underneath there is a headline which says so.

Monday, just because there is nothing else to print—just yesterday before I left—again, Chicano gangs.

My concern is, a white person can rob somebody and steal their purse, and it does not come out in the paper. The community has been wanting to stop this kind of media coverage about Chicano youths. My question is, as a concerned citizen, who do I approach that we can get involved to stop the tension that is increasing as a result?

Sandoval: Let me say I do not believe that there is such a thing as illegal, because, again, if we believe in the concept of American jurisdiction, anyone passing from the other side is undocumented unless there is a competent trial of jurisdiction to try that person and determine the legality of the person. So I submit they are not illegal but undocumented. "Alien" is something foreign to this planet, like a moon rock or something like that. But I will tell you this much as to the protection of the Fourth Amendment, I think I can take pride in announcing to you that we have put strong pressure on Civiletti and INS to enforce protection of the Fourth Amendment, and how far we have gone on that I don't know, but I have all of the confidence in the world that we will.

As to the media, let me remind you that the country is divided into four different areas. They have renewal dates on their license to operate. A license to operate is a privilege, not a right. It is based on public interest, based on what they will do in the public interest in a given area that they service. You can band together, file complaints before the Federal Communications Commission, and if necessary file petitions to deny their license renewal, which costs them a fortune, believe me.

Canales: Have the United States Attorney give him a call.

Question: I would like to address my question or make my statement to Mr. White, in defense of all of the police departments of the country who, in fact, effectively police themselves.

I think you conveyed kind of a prejudiced message when you suggest that all is so pure at the state-level component in the criminal justice system that only they can investigate or police the police, when the fact is that the same disparities and the same equities, insofar as minorities are concerned, exists in your system, and I think it is a condescending thing to say that the police profession cannot police itself. I suggest to you that your profession police itself, and that your component in criminal justice system also police itself.

White: I appreciate the comment. I do not make a case against police. It is not an anti-police position that I have taken. What I say is that no group, no institution, can properly, and to the satisfaction of a community concern, investigate and report upon itself.

I do not say that in any given particular case the police cannot and have not done an adequate job. I am quite sure there are cases where they have, but when the D.A. is under suspicion, he cannot investigate himself. When the police department is under suspicion, it cannot investigate itself. This is true about lawyers, physicians, or police officers, and it is not by any means a broadside against any particular groups and that certainly includes police.

Allen: I would like to speak to that issue. Let me cite as my example the situation that the nation was apprised of in Philadelphia when the confrontation took place with the MOVE group and the police department.

I happened to sit on a television program that night with the D.A. and the Police Chief. They asked the three of us whether or not the police had, in fact, beaten Delbert Africa, the individual who was charged with allegedly shooting the policeman killed at the site. The D.A. and the police both said, "No, the beating did not occur."

The television crew then immediately threw on their monitors the scene that was shown all around the world of the police beating that man, and the Police Chief still persisted in saying that they were just subduing him at that point in time when, in fact, what you actually saw—and I am sure many people in this room actually saw— was the beating.

Now, if you tell me, Chief, that those police officers can effectively police themselves when they are so close-minded in their approach to what a police officer does, I beg to differ with you.

Question: I would like to bring up a point, speaking of reduction of tension in communities, that one of the things that has been spoken about requires an informed and organized community. And I think to the extent that we keep talking in terms of long-range legislation or long-range plans that require massive changes, we miss the point that when we go back to our communities, all of us, on Thursday night or Friday, we are going to find ourselves in the same situation all over again, O.K.?

On Friday some police chief here today will get a phone call that one of his officers has committed some sort of act against a citizen and somebody from the community is then going to respond. So, you know that particular situation remains in the offing no matter what we say, or what we have said up to this point here.

I want to emphasize that we should walk out of here thinking in terms of how we are going to interact with our communities on an immediate basis. That may sound a little contradictory in some cases, especially for the community people here. It is going to take a further unrest. I am not advocating this, but it may require an increase of tension before you can get a reduction of tension. I am not advocating violent action on the part of the community, but when something does happen in the community, the community has to respond to that and has to be organized around it.

Question: Could there be a program in which civil rights attorneys and police officers could participate in visits to the barrios and the areas of high-crime activity, without guns, so they can see the circumstances in which people live, to see what the situation is?

Sandoval: I have always suggested that if we are going to fully improve relationships between police and communities that the communities must see the police in some capacity other than just as police officers, so they need to get involved in the communities, in church functions, in sports functions, so that people can begin to know them as friends and not just as enforcers. I have always been an advocate of that.

Luncheon Address

Robert Garcia
U.S. Representative
New York

Let me start off by talking about Houston and a young man by the name of Joe Campos Torres, a Chicano whose body was found in a bayou. Mr. Torres was arrested during a barroom disturbance. He was then hauled off to a vacant lot and thrown into the bayou with the following words, "Let's see if the wetback can swim." Mr. Torres could not swim, and he died. Three policemen were sentenced to one year in prison, and they were charged with a violation of Mr. Torres' rights. It really seems unusual that they were not charged with murder. If it was reversed and three Chicanos had thrown a policeman into a bayou and that policeman had drowned, no doubt that those three Chicanos would have spent the rest of their lives in jail. Just because the police had the authority to detain suspected criminals, that doesn't mean they're allowed to murder. They weren't really allowed to get away with it all because in the final analysis it was Mr. Torres' civil rights that they violated, and that's what they were judged on. But the Torres case is blatant and it's all too common in terms of police brutality or excessive use of force as it regards minorities. And those minorities are either black, Hispanic, or native Americans.

The case of the brutality in terms of the United States is also a serious problem with whites. But the statistics show and

make obvious the fact that these abuses are disproportionately directed toward minorities. From 1977 data with police killings, which is the most recent data compiled, white males continue to be killed at the consistent rate of 0.2 per 100,000 males from age nine up. The rate of black males alone in the same age category reached an all-time high of 2.4 per 100,000, and the trend continues to rise. Blacks comprise 12 to 14 percent of the nation's population. Yet they account for 50 percent of those civilians killed by police. Comprehensive studies citing every instance of excessive or deadly force against all minorities has not yet been compiled, making the problem of this analysis very, very difficult. But we have to look at individual sets of statistics which show minorities to be disproportionate victims of this force.

A Police Foundation report on deadly force which covered several major United States cities found that 80 percent of those killed were minorities. Black men have been killed by police at a rate nine to thirteen times higher than white men. And this is taking the population statistics into consideration. It has also found that 13 percent of those persons killed by police were Spanish-speaking. It has been argued that since blacks commit a disproportionate rate of crime, that they run a higher risk of being killed than whites.

However, the blacks account for 28 percent of total arrests, but black deaths represent 51 percent of the total.

It has also been shown that the majority of blacks who die as a result of police shootings were killed while fleeing police. These statistics are, as far as I'm concerned, unacceptable. Nobody is going to dispute the fact that there are serious problems between law enforcement and minorities. And we're here to talk about remedies. That's as far as I'm concerned. Because it's not enough to preach: you've got to be able to come up with some solution, to find a way in which we can reach those solutions.

There is a great deal that the federal government can do to begin a process where these problems can be alleviated. And the strongest catalyst, as far as I'm concerned, is to see that the problem is speedily brought under control because the Justice Department has been a catalyst in some instances. The Justice Department recently set a very important precedent by filing a lawsuit against Mayor Frank Rizzo with the Philadelphia Police Department. The federal government has accused him of systematic brutality, among many other charges of misconduct. Unfortunately in this case most of those charges were dismissed, and only the racial discrimination component of the lawsuit is still in court but with an outstanding motion to dismiss it. Although a seeming failure, this suit has not been useless. It has encouraged people to look more closely at some of these problems, to realize that law enforcement officials can be held responsible for their excessive use of force and for the police department to create regulations which will ease friction between law enforcement officials and minorities. But since this important precedent has been set, whole police departments throughout the country now realize that they can be brought to court if their method of law enforcement becomes or continues to be prejudicial, detrimental, or excessive. There are other practices the federal government can initiate in order to get a grip on this problem. They should set hiring standards in order that more minorities are employed in the law enforcement field.

As I said before, it's an almost all-white police force. And there's a civil war that's created when police have to deal with minorities. If the percentage of minorities on the police force were equal to the percentage of minorities in society, I am certain that many of the problems would be reduced. Law enforcement would then consist of people dealing with people on an equal basis, the way it should be. It may be beneficial also to establish shooting policies which would be consistent throughout the nation.

About four months ago in the City of New York there was a young Puerto Rican by the name of Luis Baez who was shot 26 times—and he was not holding a gun and he was mentally deranged. His mother had called for police to help them because he had not received his medication. And it may sound funny to some people here, but I must tell you frankly there is no reason why 26 bullets have to go into a mentally deranged person when all they were looking for was to contain and to hold. Now, that's wrong; 26 bullets, 21 in the body. And that has taken place time and time again.

Now, it just seems to me that when I talk about the principle of standard procedures in terms of when and how to use a pistol or a gun, that we only have to look at the Baez case in the City of New York, the Borough of Brooklyn.

There are many solutions to the question of police brutality. And there are many questions in terms of the community. But my sense and my feel in terms of where we're going is the question of communications—communications between the community; that's absolutely essential. I think that the Justice Department has to play a major role in terms of stepping into some of these situations as they arise in communities throughout the country. And that's why CRS, as far as I'm concerned, is really performing an outstanding function.

John Conyers
U.S. Representative
Michigan

Why is it that we have the problem with racial balance in law enforcement? If we were at any other kind of conference, you could raise the precise same issue. And so I suggest, in an empirical setting, that law enforcement officers and congressmen and police chiefs and community leaders and academicians are always citizens no matter whatever else they're doing. And that in that regard, until we begin to connect some of these things—namely, the fact that until full employment becomes a national goal and objective—we're going to have the fight, a very difficult affirmative action fight, by the way, when you have a decreasing job market and more people eligible for work, more women forced to go into employment. And then you have a diminution of jobs, and we do not have a government policy dealing with that. And so you have by

definition an explosive situation that can't help but result in the kind of tugging that occurs.

And so I opt for the solution of increasing employment, increasing law enforcement work, increasing peacetime job creation, dealing with public services, so that we absorb the millions of people who are qualified and able and are seeking work. Otherwise, we're locked into a no-win struggle of a fight over an ever constantly diminishing pie. And it seems that that part of our other capacity as citizens needs to be taken cognizance of. The former Attorney General, to his great credit, was the first in history to enforce the Full Employment and Balanced Growth Act because it was related, as our studies in the Subcommittee on Crime showed, to the relationship between unemployment and crime. And for the first time an attorney general spoke to the question of both crime and unemployment.

And so we need to begin this by asking a couple of questions. First of all, what do we expect to take out of this conference? Are we going to candidly define and describe the problem and then identify some of the potential resolutions? Bob referred to the dearth of statistics. And we need incredibly more studies funded by LEAA, if you please, to begin to give us the scientific backdrop that is needed to make the evaluation.

And so I hope very desperately that what we will do is begin to have some kind of debriefing. And I've been assured by the leaders of this conference that that's going to go on at an executive level. I only wish that we could have brought our subcommittee here. But make no mistake about it. This is a beginning of credible importance. Yes, we'll make some mistakes. True, every suggestion won't be one that will work. But out of this can come the beginning of an examination of a model state statute that we need on this question of violence. We begin to examine some of the incredibly complicated legal, prosecutorial questions involved in trying to bring police officers to trial for excessive use of force in the courts. We need a more expeditious model. We can't sue every erring and wrongful police officer in America. We can't get through in time, and we can't wait that long.

There are other models. Some of you know about them. Some of them have been tried. What we need to do is surface them, bring them to fruition, begin to circulate them at the national level. And this to me is what this conference is all about. Can we examine the conditions under which we operate at our local and federal levels and understand violence, put it in its perspective, and take into consideration the fact that we have a mobile society? We have severe economic dislocation that's not going to get any better in the eighties, from the reports I'm getting from the economists whose advice I take. We feed into our discussions the urban rot in which so much crime is a natural and inevitable consequence, and also begin to appreciate the sometimes deliberate, systematic resource starvation that prevents us from accomplishing our goals.

Yes, we want to talk about the law and the process. But what about the delivery of justice, which is also inseparably tied up into this larger consideration that we addressed here today? Already Don Edwards of California, our outstanding colleague and chairman of a subcommittee in Judiciary, is examining the question of holding hearings on the Klan and other outbreaks of violence, of organizations that are very notably on the increase, not just in the South anymore. We get the word from New Jersey and the Northeast corridor that the Klan is marching. And it seems to me that there is a responsible obligation on the part of the Congress to make a very penetrating inquiry into how this can be handled.

We also have other considerations that tie into this, and the Congressional Black Caucus, the Black-Hispanic Caucus, the Criminal Justice Workshop, the two sponsoring organizations—it seems that all of us must come together to build on the variety of experiences that is so unique to this consultation on violence. And it's in that spirit that I endorse fully all the remarks of my colleague from New York, Bob Garcia, and encourage you in your studies and your discussions and deliberations. I'm fully aware that there are quite different views that are to be presented, and that's the challenge and, in a way, the danger of a consultation of this nature. But that's why there hadn't been one up until now. Nobody thought that they could dare even attempt it. And it seems to me that it is a mark of where we must go in the eighties that you are meeting here in December in this great setting.

MUNICIPAL LIABILITIES: SPECIAL PROBLEMS

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Burtell Jefferson

I would like to speak just briefly to the special problems that are occurring now insofar as liabilities and assessment on municipalities because of the increasing number of civil suits based on alleged police brutality or excessive force.

The growing importance and concern for municipal liability, particularly in special identified problem areas, is readily apparent when considered from the standpoint of the dramatic increase in the number and types of suits evolving. To illustrate the breadth of actions which may give rise to municipal liability, I will call to your attention a recent article in the *Washington Post*, which reported that the U.S. Court of Appeals in the State of Virginia, the fourth circuit, upheld an award of $100,000 to a Virginia prisoner who sued state authorities because they did not eliminate the loud music at the recreation center. There was found to be a psychological effect on him because some of the inmates were playing music too loud.

Of course, in the discussion of municipal liability, even special problems must be preceded by a degree of generalization. State or municipality laws may afford a threshold defense of sovereign immunity, at least for actions of negligence and intentional torts, but trends indicate an abandonment of sovereign immunity, especially by judicial fiat.

As of a few years ago, 25 states had waived sovereign immunity. Some 18 others have partially waived it or have been restricted in its availability. So municipal liability is not only possible but likely.

The courts are going along with waiving of the sovereign immunity provisions. To put this in historical perspective, the thesis of municipal immunity is acknowledged to have found its beginning in a 1780 English case, *Russell* vs. *the Men of Bewan.* Implicit in the idea that the king could do no wrong, the court conceived the idea of the municipal corporate entity as a nebulous state, and this action was, in effect, against the populace of a whole country.

Observing the absence of precedent to sustain such an action, fearing a multitude of such actions, and lacking the funds to pay such judgments, the court declared that it was better that an individual should sustain an injury than that the public should suffer any inconvenience—That is, the liability for the payment of the judgment.

However, members of the legal professions, somewhat understandably, argue for amelioration. Thus, in the modern age of comparative sociological enlightenment and its applicability by judicial decision, branches of government, including municipal corporations, are made liable for their torts as well as the torts of agents and employees. The municipality, economically speaking, shifts the entire burden of damage resulting from a wrongful act from the individual who suffers the injury to the entire community where it can be borne without any hardship on any individual, and where it justly belongs, being an incident of the operation of that particular enterprise.

A further basis for imposing municipal liability is that it is seen as an incentive to careful selection, instruction or training, and supervision of persons who are charged with performance of their duties. As a chief of police, my consideration of municipal liability translates into rather special problems. The first and probably the most recurring are claims which allege police brutality for excessive force during arrest. Often, the legality of arrest is not contested, but nevertheless the suit presents a factual dispute which must be resolved by a jury if that demand is made.

I don't want you to think at any time that I am suggesting all such complaints are unfounded or spurious. But such claims of police brutality or excessive force pose a real liability potential, especially as the other areas of municipal liability expand with concomitant caseloads.

Due to the expenses of litigation and increased caseloads on municipal attorneys or insurance carriers, the frequency of settlements in such cases is ever-increasing. Thus, the economic incentives for plaintiffs' attorneys and others rise even in those admittedly marginal cases.

It is peculiar to an area which has a potential for abuse, just as that of the nonexistent traffic accident, which was this past Sunday the topic of an expose on "60 Minutes".

The uniqueness of brutality or excessive use of force suits, therefore, compels the immediate and most complete collection of demonstrative evidence at the first indication of a possible claim. Consistent with these needs, specific procedures have been established for some time within our department. That is, we have general orders that relate to complaints, disciplinary procedures which outline particular procedures that are to be followed to insure each citizen's complaint receives a timely investigation.

The duties, responsibilities, and conduct of members of the department are covered by a general order, and that general order restates the obligation that members of the force shall not use unnecessary force in making arrests or in dealing with prisoners or any person.

It also requires that each member shall report each instance of use of force to a superior officer as soon as possible. There is a general order that deals with the medical treatment and hospitalization of prisoners. That order requires the immediate transportation of arrestees for examination and treatment when there is a claim of any injury or disease or when there is evidence of a recent injury, together with the execution of an arrestee's injury or illness report.

This form includes a notation of all cuts, bruises or other injuries that may be visible to the office or which may be claimed by the person arrested. At that time as well, a notation of the results of the examination by the doctor is made.

We also have included in that order a requirement for photographing members of the force and prisoners. This is because of officers who might sustain physical injury involving assaults on them and injuries allegedly received by prisoners inflicted on them by officers.

More recently, in response to news media accounts which focus solely on the number of complaints filed by citizens in Washington as compared to Philadelphia, additional safeguards have been instituted to provide a closer monitoring of the number and type of informal complaints being received department-wide, with attendant new reporting requirements.

Additionally, we have a requirement that reports must be made on any arrestee who attempts suicide, and we do have a suicide file, which is maintained in our computers. Whenever that officer receives an injury during the performance of duty which requires treatment, an injury report is made by that officer as well as a report of any loss or destruction of a uniform or equipment.

Each report which relates to a prisoner is traced by the central complaint number, which is assigned to the person that is arrested. We have recently gone into a new reporting system. We have a two-tier type citizen's complaint system.

There is a formal complaint procedure, which is initiated by citizens swearing out a formal complaint against a member of the department. It is filed with the mayor's executive secretary. The mayor forwards the formal complaint to my office for investigation and report to our department's internal affairs division.

The complaint, the answer to it by the officers, and the report of the investigation are returned to the mayor's office for review. The mayor adds to the chain of command officials through whom the reports of investigation have passed, who have all of the authority necessary to order any further action which may be deemed appropriate if not satisfied with the investigation or its finding.

Although a previously established citizens complaint board has not functioned since 1975, outside review of the formal complaints by the mayor's office has continued. Some 252 formal complaints have been investigated since 1975, 62 of them so far this year, which represents more than a 300-percent increase over last year's total of 18, which indicates that our system does deal effectively with the complaints that are lodged against our police officers. There is an outside review other than that of the police department.

By way of an overview, there is a department circular which charges the department's director of field operations to perform a monthly audit of all informal complaints. These complaints are registered on forms which summarize types of complaints, and they identify any patterns or problem areas which may appear.

Copies of the audit summaries are forwarded to the department's community relations division director and all commanding officers and myself. Additionally, at the close of each quarter, all commanding officers are required to submit a report to the director of the community relations division indicating the number of complaints together with the investigative findings and any remedial actions taken where necessary.

A copy of the full investigative report is to accompany the quarterly report. The community relations division in turn must compile a department-wide synopsis, which is to be forwarded to all of the assistant chiefs and myself, coupled with recommendations for action which may be appropriate.

There is a special order which totally integrates the procedural reporting requirements set forth in the circular, and moreover it establishes a complaint card control log, which is to serve as a particular file to insure timely investigations are completed.

A 30-day period from the date of initiation of an informal complaint is established for investigation. The assistant chiefs in charge of the respective bureaus are authorized to permit an extension of the investigative period for cause shown through the investigating official's commanding officer.

A new and additional level of review is established in the operations division, which must sign off on the formal investigative report, to signify satisfaction with the investigation. The director of the field operations division is also directed to submit an annual report summarizing the complaints in the manner required for the quarterly report.

The above procedures or similar ones will not assure, by themselves, the municipality or the officer necessarily a complete defense, but they can increase the chances of winning or at least substantially reducing the monetary recovery where liability is assessed by preserving all forms of evidence which can corroborate the credibility of the case. Furthermore, the procedures do carry out and serve in part the public policy incentives on which municipal liability is predicated, and lay the basis to continue to foster good police-community relations.

Of course, if it instills confidence in the sound and responsible management of government, it, in itself, may curtail in significant proportion current trends in municipal liability by removing the personally-felt animosity for which retribution is often sought.

Criminal procedures can obviously be of assistance in identifying officers who have violated the applicable standards of conduct. Early identification of incidents where liability must be conceded will enable, in all likelihood, constructive settlement at lesser amounts since many costs which attend the advancing stage of a lawsuit such as the cost of depositions, various discoveries, expert witness fees, and so forth, can be avoided. On the other hand, in instances where potential litigants are staging lawsuits, this serves in good standing also. With improved communication and cooperation among all municipalities and agencies, it may be possible in the near future to establish even more definitive procedures which could lead to uniform standards that further reduce the municipality's ultimate risk of liability.

These are some of the methods, procedures, orders, and policies in effect in our department which we feel are going to stand us in good stead in instances where officers are accused of using excessive force or deadly force. We have tried to adopt certain regulations, rules, and policies that would preclude the number of lawsuits that this department was beset with in past years.

Another special problem area in municipal liability, which is marshalling more attention, concerns the police officers' use of weapons, especially the service revolver. Recent studies underscore the extensive variance which is allowed from jurisdiction to jurisdiction, which has led to a commissioning of a consortium of studies by LEAA. Even with all of the common law powers of constables, the members of our department are restricted by rules and regulations in the use of firearms, by what is commonly termed a common law self-defense rule. That is to say, members of the force are restricted in the discharge of firearms to the

following circumstances. One is to defend himself or another from attack which the officer has reasonable cause to believe could result in death or serious bodily injury. Second, to effect an arrest or to prevent escape, whenever other means of effecting the arrest or preventing the escape has been exhausted, of a person who has committed a felony or has attempted to commit a felony in the police officer's presence. Or when a felony has been committed and the police officer has reasonable grounds to believe the person he or she is attempting to apprehend has committed a felony, provided the felony for which arrest is sought involved an actual or threatened attack which the officer has reasonable cause to believe could result in death or serious bodily injury, and provided further that the lives of innocent persons will not be endangered if the officer uses his firearm. Third, to kill a dangerous animal or one that is so badly injured that humanitarianism requires its removal from further suffering. Four, for target practice or competition on an approved range.

Members are expressly forbidden to fire warning shots, to fire at vehicles, except when justified under certain sections of our order, and provided the officer has no cause to believe that an innocent person will be injured as a result. He is not to fire unless it involves an actual or threatened attack that could result in death or bodily harm, or to fire in the case involving a misdemeanor offense.

Further provisions specify that any member who discharges a firearm must make a report of the incident to his commanding officer and myself within 24 hours. The commanding officer must as soon as possible thereafter conduct a thorough investigation of the circumstances surrounding the discharge of firearms, submitting to me a detailed written report as to the results of the investigation and conclusions as to whether the discharge was justified.

Every member's use of a service revolver, which is issued or approved by the department, is reviewed by a three-member board, the Use of Service Weapons Review Board, which makes an independent recommendation as to whether the use is justified under the department guidelines.

Further provisions of our police manual restricts a member from carrying, in the normal exercise of his duties, any weapon not issued or approved by the department. The member must qualify on the range with a nonissued weapon as he must with his issued firearm.

The member must also possess an issued or approved holster for the nonissued weapon under the provisions of our general order before that approval is given. As chief of police, I ultimately decide whether to accept the recommendations which are made by the Use of Service Weapons Review Board, and a report is then made to the mayor as a result of the investigation, and any disciplinary action is taken.

If the member of the force who discharges the firearm is killed or incapacitated, his superior is charged with the responsibility for making the initial report. In addition to the report on the use of firearms, specific reports are required for the use of mace, as well as other methods of force such as your fist or whatever.

For fiscal year 1979, which covers October 1, 1978, to September 30, 1979, there were 99 uses of weapons in this department, 69 incidents of firearms, 13 of which were accidental discharges, eight incidents of mace and 22 incidents of the use of the blackjack or baton. Two officers received letters of prejudice, two officers received letters of warning, one officer received an official reprimand and two officers were cited for Trial Board action.

Fiscal year 1979 as compared to 1978 continued to show a decrease in the use-incident rate. A total decline of 18 percent, one person as to firearms and 33 percent as to mace, and 44 percent as to blackjacks and batons, was recorded.

As noted in conjunction with claims alleging brutality and excessive force, the investigation does not assure that the officer has a complete defense, but they do preserve all forms of evidence which corroborate the case one way or the other.

All officers who use firearms or other weapons which result in the death or serious injury of another person are referred routinely to the U.S. Attorney's Office for the District of Columbia for review, and any case involving death of a person is presented as a matter of course to the grand jury.

Because of the serious consequences to life and limb which can flow from the use of service revolvers, periodic training and requalification are stressed as a means of reducing the attendant risk of liability. Range courses should be reevaluated and adjusted so as to reflect approximate conditions under which firings most frequently occur.

The final special problem as related to municipal liability concerns vehicular pursuit. Undoubtedly, vehicular pursuit poses a fertile area in municipal liability, yet it is counterbalanced by some of the most compelling considerations, since vehicular pursuit can result in the commission of rather flagrant violations coupled with a regard to reasonable efforts to effectuate a stop. This gives rise to public safety considerations and the flight may not cease even though pursuit is terminated. Thus, on the other hand, you have to consider the safety of the citizen who may be endangered if pursuit is undertaken, against the danger to which innocent citizens may be exposed depending on the seriousness of the offense involved and whether the act displays a wanton disregard for the safety of others. Pursuit may serve to forewarn unsuspecting citizens who otherwise may find themselves in harm's way.

Given that the objective of pursuit is to apprehend a law violator without causing unnecessary peril to citizens, their property, or for that matter, the officers, it becomes evident that whenever unnecessary damage or injury to citizens or the police may result, pursuit must be discontinued.

While various types of police vehicles may be required to initiate pursuit, such as a motorcycle, the patrol wagon, unmarked cars, what-have-you, care should be taken to have marked sedans with full dome lights to provide the maximum road stability and body protection. A limit of two, a primary and backup vehicle, should be involved to insure that the number of pursuit vehicles does not interfere or create undue hazards. Safe distance to allow for reaction time should be maintained, and no attempt should be made to peril or deliberately contact the vehicle since no one can ever be sure who will keep control.

The particular areas that I have spoken to you about and where I have cited the particular general or special orders of our department, I do have some of those with me. I don't have them in great numbers, but they could be reproduced, for any of you who might be interested in the rules, regulations and policies of our department. I have tried to bring out to you the position this department takes in trying to assure that we have the least amount of complaints and civil suits by implementing rules and regulations which we feel will adequately address the problem, protect the community, and also protect our police officers.

Robert M. Bieber

Since I think time is of the essence, I am going to move along quickly and give you a basic overview of what I see as a major problem, what some of the cases have been, where they have gone, and sort of summarize what governments can do to reduce their exposure in the area of police official liability or government liability regarding police activities.

There were some statistics mentioned at the luncheon with respect to the types of cases and the percentage of cases coming down the pike. What we are seeing primarily is a large amount of cases in the area of false imprisonment. These are what we call low-severity, high-frequency cases. There are a lot of them floating around but the dollars actually involved are small. Many of these cases are settled out of court for very few dollars, but yet they make news because there are a lot of them.

The cases I think we should be very much concerned with are the following three types. First is the use of deadly force. The dollars involved in those types of cases run now in excess of $10 to $20 million.

The next type of case is pursuit driving, negligent use of a police vehicle pursuing another vehicle. We see cases coming down for up to $5 to $7 million where police officers are using this vehicle and endangering the safety and welfare of the public.

The third type is a new type of case that seems to have hit the newspapers within the last year or two. That is strip-searching, where police officials are bringing in women who have been found to have committed a basic traffic violation. They take them into police headquarters and put them through one of the most embarrassing searches that any woman can possibly get involved with, stripping them down to nothing and going through an in-depth body search. These cases are starting to generate claims in amounts in excess of $5 million.

So that is the area of major exposure. That is the trend now for the next, I will say, five to seven years. Let me give you a very brief rundown on some of the cases that we have had in Westchester County that have generated or could possibly generate large dollar amounts, or that we think can very easily be pushed off for a reasonable settlement based on good documentation and good police documentation of their actions.

For example, there was a narcotics raid. Two narcotics agents went into a particular house. They knocked on the door. They had a no-knock warrant. They broke down the door. The suspect attempted to fire at the police officers. Both police officers emptied their automatic weapons into this subject.

The allegation by the widow was that, "They didn't have to kill my husband," and that these particular police officers were improperly trained. Our defense is that, one, these particular police officers were authorized by law to do what they had to do. Two, they did not act recklessly in what they did. And, three, which is of major importance, they said their actions were necessary on the basis of self-defense.

This case still has to go to the courts on its merits and has to go before a jury, but the question here was that the police officers fully documented their training. Records showed they had training in proper arrest procedure, the use of weapons, and how to handle a specific problem, such as breaking into a particular home and going on a raid. That was fully documented with recent updated training, and that is going to tremendously help in the defense of this particular case.

A very frequent case we are seeing is the use of excessive force, not as dramatic as the deadly force case, but the limits of the case seem to go in excess of $1 million. We had a large female welfare recipient come into a welfare unit, attempting to claim her check, getting somewhat outraged by the slow procedure and starting to cause a ruckus within the facility, attempting to get violent and verbal with the caseworkers.

Of course, they were in fear for their welfare. They attempted to call the police. This particular female was only 5'7" but weighed 230 pounds. The police officer that arrived at the scene was 5'7" and weighed 175 pounds. That is just a little bit of extraneous information.

The police officer attempted to put this female under arrest and a wrestling match ensued. The police officer being trained in proper arrest technique, and, of course, in self-defense, the woman happened to fall and she broke her leg.

At the trial it was shown that the police officer acted in a professional manner, that the woman was warned, was asked to please leave the premises without any personal confrontation, that restraint was used properly, that excessive force was not a mechanism which was tried here. A full investigation found that the witnesses at the scene testified that the subject was outraged, that she could not have been talked to on a reasonable level.

The police officer also fully documented in his own notebook and on his police records how the actual incident came down the pike. All of this documentation leads to a good defense, and it is hopeful that these particular backup things, this preparation for this case, will come down to a nice dismissal.

Let me go through very quickly again some of the other issues that are not as severe as the two I just mentioned, but lend themselves to a more-frequency, low-severity type of arrangement. In the public safety area, cases are coming down the pike where the press has been limited in the coverage of fires by the fire department and/or the police department. Second, there are false arrest, false imprisonment types of cases.

Third are your excessive force and harrassment types of cases. Illegal entry, search and seizure, interrogation, use of force during interrogation, and jail sanitation are becoming a tremendous problem. Cleanliness of the initial facility where prisoners are housed, prisoner medical and health care are a tremendous problem. The use of solitary confinement, prisoners' access to law

libraries and religious publications, and male and female visitor privileges. This is where cases are starting to come down the pike with regard to violations of civil rights.

What are the courts doing? Some of the philosophy that exists out in the Midwest has meant larger suits, but the indication is that the awards are not that large. The suits are growing in number, but the amount of cases actually settled for larger dollars are not that many.

What seems to be happening is that people are suing police agencies not for particular events. They are suing them on a blanket particular act—for example, the use of excessive force, but not homing in on one particular issue on a big problem where police used excessive force. People say, "Not in that instance but they used excessive force," or "They violated my civil rights," a blanket statement.

Judges feel that they are not going to act on a blanket statement. They want to act on a particular individual act where there has been a complication between one or two individuals. The courts are starting with the idea that the police are trying to do their job. There is adequate training. In a lot of police agencies there is good police management.

Of course, on the other side of the spectrum in a lot of jurisdictions, there is poor police management and training. But the courts seem to feel that police officials, if acting reasonably and prudently, are doing their job, and a lot of cases just get dismissed.

Let's bring to light one in the area of pursuit driving. It is a $500,000 case. A particular police vehicle gets wind of a stolen vehicle proceeding down a parkway. He takes pursuit. He is doing 80 miles an hour pursuing this individual vehicle. Now he moves into city limits. He attempts to drop his speed. He is still pursuing but not at the speed he was originally.

He is trying to keep an eye on the vehicle, but not keep up with it the way he was keeping up with it on the parkway. What happens is that the vehicle suddenly goes out of control and wraps up an innocent person's vehicle, and the person in the innocent vehicle sustains broken ribs and a broken leg.

What are the allegations? They are the following: The police vehicle was speeding on city premises and should not have been moving in that particular area at that speed. Was it necessary to pursue that vehicle through city streets? Was it reasonable and prudent, knowing he could endanger the life and welfare of the public?

The defense was, first, the driver who actually caused the accident was not the police officer, it was the subject. Second, the officer attempted to reduce his speed and was using reasonable and prudent care. Third, the police officer was well-trained in police pursuit driving techniques. Fourth, he had a police duty to apprehend a stolen vehicle. Fifth, the police officer used proper radio procedure in putting other police departments on notice that this vehicle was proceeding through their jurisdiction.

That was the defense of the particular case. The final adjudication is still to come. A decision is to be made by the jury, but what we see in juries is the following trend: Juries are totally familiar with these types of cases. There are more and more of them. The question is: Was it reasonable and prudent that the police officer did not drop the pursuit knowing he was going into city limits? Should he have dropped the pursuit knowing that he was only dealing with a stolen vehicle, and that was not a very violent type of crime? That is the allegation. That is the question that is going to the jury.

O.K., let me summarize. There is a case, I am sure you are all aware of it now, called the *Monell* case, where public officials' liability for civil rights type of litigation was established. You can now sue the governmental entity.

How does the public official respond to this? What is the obligation of the government now? The County of Westchester, based on the *Monell* decision, has decided to develop legislation which will agree to protect and indemnify the interests of the public officials where they have been found to be acting within the scope of their employment when a certain thing was done, or an allegation was made truly in the scope of their employment with the government, and the attorney's office will agree to protect and indemnify their interests.

Another thing available is the public official or police official public liability insurance. The key to that program is the following: Just like any insurance program, read the exclusions before you read the rest. The exclusions will exclude half the coverages you expect exist under that type of policy for civil rights types of problems.

The other is look at the deductibles. You will find deductibles ranging anywhere from $5,000 to $25,000 per individual. That means you as public officials will be responsible for the first $25,000 of loss. Is that a good insurance policy? Absolutely not.

The key to it is the following: You have got to train the people what to do. You have got to educate them in how to deal with the public, how to deal with problems, how to deal with safety and loss prevention regarding their own acts and safety, and if there are any questions on this issue we will discuss it at the end.

Curry First

I respectfully suggest that this conference for almost two days now, with a lot of important exceptions, has been timid in labeling and identifying problems. I think we have used euphemisms in talking about problems. On other occasions we have turned our emphasis from a citizen emphasis to a police emphasis. What I want to do in the next 10 minutes is first talk generally about not safety and force but police brutality, and then I want to talk more particularly about the topic of municipal liability and how—if at all—it relates to police brutality.

Police brutality, from a constitutional lawyer's point of view is the unconstitutional, illegal, excessive use of force by law enforcement officers against people. The excessive use of force, police brutality, violates the 14th Amendment to the United States Constitution, the due process protection clause. I think we have to keep these constitutional principles in the back of our mind when talking about these problems.

The topic this afternoon is four words, "Municipal Liability - Special Problems." I don't like that title at all. Leave it to a

lawyer to change four words to 22. This is what I think our topic should be: "Municipal Liability - Its Existence is a Positive Development to Help Deter Police Brutality and a New Opportunity to Provide Equal Justice Under the Law."

Now, when we talk about municipal liability and something new, it is what Bob referred to as the *Monell* decision. That is a U.S. Supreme Court decision decided 15 months ago which states that cities in civil rights cases generally are not absolutely immune. If they are absolutely immune, they are protected, and you essentially can't sue them. Under *Monell,* if you sue them and they are knocked out of the case, they lose their absolute immunity, and therefore may be liable at the end of the case.

What we are finding under this decision—the cities are in the cases that the plaintiffs' attorneys bring them in—is that cities have an immunity that is not absolute. The defendants have what is known as a constitutional or qualified conditional immunity. It is the same immunity the police officer has always had and those people were right about all these cases. I will develop this further. The police in the municipalities continue to have double protection. They are protected if there has been no civil rights violation, and they are protected even if civil rights have been violated if in that context the police and the city did not abuse their constitutional good-faith immunity.

Now, how does municipal liability—the topic for this afternoon—relate to police brutality, if at all? Does it relate to any of the remedies we have discussed the last day-and-a-half? How does it tie into any of these remedies? I want to briefly go into that.

We talked about this morning and yesterday different remedies for police brutality. You can seek criminal charges against the police officer by going out to the U.S. Attorney and/or the local county district attorney.

The second remedy includes discipline against the police officer after a fair hearing. It would be an internal police investigation or review board, such as a fire and police commission.

In wrongful death cases, a coroner's jury and medical examiner's report is made. There are civil lawsuits brought by individual people in state or federal courts against police officers, and now also against governmental entities, municipalities.

With this end of absolute immunity for cities and the introduction of only a qualified immunity, we can now in these civil lawsuits bring the employer of the police into the case. Now, why do community organizations, why do victims of police misconduct want to bring the city into the case? The answers are obvious. It relates to accountability and it relates to deterrence.

The whole thrust of this conference is to talk about ways to minimize, to end police brutality. We have to have ways to deter it. A civil lawsuit in theory is to compensate the victim for the injury that the government police officer has wrongfully inflicted on them, but the idea of this conference isn't to pay people money damages. The idea is to stop police brutality. We have effective remedies. We are going to have the deterrents, and if we have the deterrents we are going to minimize police brutality.

In terms of accountability and waking up the government, that is one of the main benefits of the Supreme Court decision in *Monell.* Once we start suing not only the individual officer but also their employer, the city, you are going to wake up the city attorney. They are going to have to be involved directly in the case defending the city. We are going to wake up the city treasurer who is going to cut a check if the case is lost. You are going to wake up the mayor. You are going to wake up the police chief and top management officials, and you are going to wake up the common council. So the whole idea of bringing the cities into the cases is to bring these other institutions around to the problem of police brutality to think about it, and, most important, to start taking actions to stop it.

When we talk about a civil rights lawsuit against the police, we are talking about a civil action in a state or federal court. Most of these cases are brought in federal court. There is a 100-year old civil rights statute. It is in 42 U.S. Code 1983. That is the jurisdictional foundation for 90 percent of the police brutality cases. There is another statute from 1895, equally old, that citizen victims use when they feel there has been a conspiracy against them related to the brutality.

Now, let's talk about a citizen victim case in federal court against a police department. The police chief of Washington has alluded to the increasing number of cases that are being brought. That is true. He said there has been a lot of discussion about all of the claims people have brought, but the important point is that anybody can file a lawsuit. Anybody in such a civil case can ask for a $500,000 or $10 million. What is happening on the bottom line? Are these cases being settled with the victims getting an adequate settlement? If the cases are going to trial, are the people winning?

I think if you look at the statistics, it is very disheartening from the police victim point of view. The cases are very difficult for the plaintiff to win. They have about eight hurdles that the city doesn't have in defending, and that police officers don't have.

First, the burden of proof in these cases is upon the person. Second, in many of these cases the people don't know the identity of the police officer who allegedly brutalized them. They don't remember what he looked like. The police won't cooperate and show any photographs. You don't get to first base if you can't identify the officer. You can't file a case, or if you do, it will be immediately dismissed.

In Wisconsin right now we have a law on the books which will require all law enforcement officers statewide to prominently display in three-inch letters their last name and police number, and the number has to be four digits or less.

In court you need credibility. Police officers as defendants in these cases are very experienced, very expert witnesses. These cases frequently come down to credibility contests. When you go to a police brutality civil rights trial, you don't think you are in the same city where it happened. The divergence in testimony and factual observation between the citizen plaintiffs and police officer defendants is overwhelming. One side is lying. Who wins in that kind of a contest?

Sit back and imagine you have a jury properly selected and this is their first police brutality case. They want to believe the police always do good. The police are very, very experienced in

testifying, doing it about 100 times a year in ordinary criminal prosecutions. The police are there in uniform.

On the other hand, the citizen plaintiff is nervous, he is inexperienced, and may only have a tenth-grade education or less. It is very difficult when the case is one of credibility to have the jury say, "We don't believe the police." That happens and the victim loses. If the plaintiff victim establishes civil rights were violated–let's say a false arrest because there is no probable cause and no warrant–that is not enough to win the case. That is not enough to get liability.

At that point, the police as defendant, the city as defendant, shows that civil rights were violated superficially but that they have immunity, which in fact they do. If they can show they generally acted reasonably under the circumstances, notwithstanding an improper arrest, if they can show they acted in good faith, the police win the case. There is no liability. The plaintiff loses and no money goes to the plaintiff.

Getting attorneys is a big program. The people don't have money to pay attorney fees. Getting these cases on contingency is difficult because they are very difficult to win, and attorneys generally aren't good about taking many of these cases. Then you get to the case that you finally win, the one case in twenty. Let's say there is a judgment against the individual officer. You might have a lot of trouble collecting that judgment, and I could cite case histories to you. So the long and short of it is that, right now, I don't believe, if we look at the record, this is a very good remedy. And I think one of the things we want to focus on at this conference is what remedies do citizens now have, how do we make those remedies better, and how do we creatively look for additional remedies.

In terms of the law and immunity, I talked about the good-faith, qualified immunity. I don't want to go into that, but I can provide people with reference to the relevant Supreme Court decisions.

One point we talk about is let's try to be creative and look for new remedies for police brutality. Right now the FBI has a very special procedure, the components of which involve professionalism, speeding up investigation, following an investigation to the conclusion, and putting the best people on it. It is the method the FBI uses when an FBI agent is killed in the line of duty. Police departments have special investigatory techniques they utilize when a police officer is killed or injured. It is proper and good and we want that. The people should say to these governmental institutions we want the same remedy, the same institutional vehicle, to follow when the people are injured.

I think if you look at the remedies they now have from the law enforcement point of view, that is good and effective generally. Let's apply the same thing when people are brutalized, and we may be talking about a remedy that is worth pursuing.

Steven R. Webber

Because the time is so short and I believe we would like the opportunity to address some questions, I have left all of my brilliant remarks on the table. Instead, I am going to talk to you for just a minute.

I think those of you sitting here have a very awesome responsibility. You have a really simple choice. You can go home in the same status you came, that is, ignorant, confused, beset with problems, or hopefully, you will have taken some notes and you will be prepared when you get back to do something to help solve this problem. You are either going to be part of the problem or part of the solution. And the responsibility is not mine, the panel, or our moderator's, but yours, whether you are from the Urban Leagues, from a citizen group, or whether you represent a police force. That is your responsibility.

We have a Proposition-13 mentality that I will speak on just for a minute, where the citizens seem to think they can, on the one hand, reduce the tax dollars and turn around and demand better police protection, fire protection, and training for the police, and on and on. I submit to you very kindly that lower taxes and more government services are mutually exclusive.

I think that the citizens and the citizen lobbies have a significant responsibility to make police enforcement stronger, to make police enforcement more effective, to make police enforcement responsive to those people that government–that is, law enforcement–is pledged to serve. It is an awesome responsibility and it is one that all of you share. I, as a speaker, don't have your problem. I have my own set of problems. But each of you, again, has a choice. You can be a part of the problem or part of the solution.

When you come on last at a conference you feel kind of like the last porkchop in a boarding house: everybody wants you, but they are already full. I am going to leave you with just one real quick thought, and then we will open this up for questions.

There is a little poem that I committed to memory, and it goes like this:

We have two ends with a common link
With one we sit and with one we think.
Success depends on which we use.
Heads we win and tails we lose.
Thank you very much.

QUESTIONS AND ANSWERS

Question: My question is on liability. One of the unfortunate trends I have seen is in those states that have the common law on shooting a fleeing felon is that police chiefs have, in many cases, adopted policies that are much more restrictive. Since that has in effect increased their liability, I see police chiefs retreating from these policies and going back to the common law, which seems to be a step in the wrong direction. That is one of the unfortunate results of the legislative approach to making change. I wonder if you could comment on that first?

Webber: I am not so sure that is the situation where you have the police department that has "better" policy than federal common law. From what I have seen the federal judges will apply the federal law. Even though the police defendent violated that city's policy, the judge will go to the outer limits, which is federal common law, and say under that, civil rights were not violated.

The way the victim would get around that would be to bring the police brutality case in a state court under state law in the

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customs, policies, and practices of a police department. We want to be sensitive to retrenchment by police departments because of the litigation, but, again, I am afraid that it might be more of a verbal problem than a practical problem.

Peter Scharf: I think the civil liability issue poses a tremendous threat to the positive direction we have heard about increased administrative control of police shootings. Let me give you some examples.

There is a case, *Peterson* vs. *Long Beach*, in the State of California, an appellate decision, where a shooting was outside of the city guidelines and inside the statute of the State of California, and the city was held liable for the action.

What happens in my travels around California is that several city managers and city attorneys went to their chiefs and said, "Hey, listen, if we have these stringent guidelines you can put the city liability at millions of dollars." So the chiefs had to say they were faced with a tremendous moral dilemma.

They went to the city manager and said, "We have got a problem. We morally believe in the restrictive guidelines, but we are putting ourselves under liability." Given that kind of decision, in fact, the more you train, this could be used if a shooting was outside of the training guidelines. This could put the city in liability.

I think another area of liability, mentioned this morning, is the desirability of predictive studies, which I agree with. In fact, we are trying to do one that raises tremendous liability. Let's say that you know that an officer is a potential risk, and then you have him before you, you get some psychologists who tell you that this officer poses a risk to the department. And you know ahead of time, and the guy goes ahead and kills somebody. That can put the city at tremendous civil liability.

The third thing I think several chiefs have said is that there is a crazy Catch-22 thing going on. The better investigation you do, the better shooting review board you have—potentially with this movement—the greater the liability of the city. So you know it is a crazy Catch-22 situation that the more you do, the better work you do, in some sense the greater liability you put yourself in. I thought it was an excellent presentation, but it illustrates the complexity of the problem, and I think this movement could provide a tremendous danger to the kind of positive thrust we see.

First: That is one thing I want to comment on. I don't know that this is a problem. What is wrong with a situation where a police department introduces a new progressive policy we will want? When we talk about liability, we have to recognize that a police officer has violated the law, and let's get away from these broad terms. The policy has been violated and a citizen has been hurt. Don't we all, in that government entity, want to compensate the injured person in our city for a violation of the law?

Now, the police officer, again, is going to win that suit because they have the immunity if they acted reasonably, notwithstanding a policy was violated. I don't know that this is a problem that we want to focus on as something that needs correcting. Secondly, in these cases, in federal courts, as the law that I have studied and briefed and seen, the courts go to the outermost limits to protect the police officer defendants.

Bieber: We have had a case on that particular issue, where certain policy guidelines were set up. They were set up basically as paper guidelines, like so many governmental entities set up paper guidelines to have something on file so they can say, "We have a policy statement acknowledging that particular procedure."

What happened was a part-time police officer was allowed to take a weapon home with him, where he should have had the weapon placed into a particular gun rack. The policy allowed him to take the weapon home under two situations. No one oversaw that he was supposed to take this weapon home and there was nobody to review it and nobody to actually log out the weapon.

He went to a party and wound up killing somebody at the party. The fact that we had the policy statement in force was not to our betterment. It was to our detriment. If we were to add to the guidelines as set down in the policy statement, and police officials acted prudently in following the guidelines, I am sure that policy statement would have been to the betterment of our governmental entity.

Jefferson: Police administrators have got to realize the reason we are beginning to experience more complaints from the community alleging police brutality is because, in the past in law enforcement, there have not been any real policy or procedures in the department that really address the problems of excessive use of deadly force to the extent that the general community was assured that the police were adequately trained and, in instances where complaints were made about the use of excessive force or brutality, that there was an adequate complaint system. I think until such time as we begin to deal with that problem and make sure that there is some mechanism in place where a person can complain of police brutality, and that the complaint system is responsive to those complaints by the citizens, we are going to

be constantly faced with these problems. It is something we are going to have to meet head-on and deal with.

Question: This question is addressed to Chief Jefferson. Some of the policies that you mentioned in your department really sounded nice except something worse was happening. You mentioned that some police officers had received letters of warning, others had been reprimanded for alleged police misconduct. O.K., but really are these individual police officers still on the street?

Jefferson: Yes. Well, you see when I mentioned the level of discipline, it depends on the type of complaint that is registered. It could be a case where a person makes a complaint that there was some verbal abuse directed at them by the police officers in the mere issuance of a traffic ticket. To have that type of complaint lodged against a police officer would not warrant using the trial board. There are certain levels of discipline we impose upon the officer, depending on the facts and circumstances of the complaint.

Question: You mentioned that there are some felonies that are taken into account as far as the police officer using firearms. Well, something could be a felony in this city and a misdemeanor in California. For example, you can stand on the sidewalk and see a felony and do the same thing in Virginia and it is misdemeanor. Could you comment on that?

Jefferson: Yes, I think we have to look at the circumstances surrounding the complaints lodged against police officers in the use of firearms. I would say that in some jurisdictions it is permissible for police officers to use their firearms in the case of misdemeanors and, hypothetically, there could be a situation where just on a mere petty larceny a police officer pursues an individual and is allowed to shoot him.

In my judgment, in a particular situation like that, a police officer should not be allowed to use that force. I can only speak for this particular jurisdiction, but I think in a jurisdiction where that is allowed perhaps there needs to be legislative review of some of the laws.

Question: From time to time over the last three years we have looked into the issue that was raised by Mr. First. There is legislation before Congress now to amend that act and improve it, and first of all, I would like to invite all of the participants here to also participate in that process, and I think that will be a very healthy thing. But I would like to make a few comments which the panelists might like to comment on.

First of all, the efforts that I just mentioned, the bill number is S. 1983, if you believe it or not. It was kind of fortunate that it happened that way. But is represents a legislative solution, which I think addresses the problem of what would happen in progressive jurisdictions where the police are making its rules, if that is against their interests, where the state law is trailing terribly behind. I think that represents progress, and as a matter of fact, we are trying to do that.

The other thing I will say is that the *Monell* case is only one Supreme Court case on that point, and the way we look at it, from a civil rights point of view, there have been many more setbacks in the current court which have not been favorable to civil rights plaintiffs in these kinds of cases. And I think it was alluded to again by Mr. First when he mentioned that if you are in a situation where you know something has happened and you can prove all of the elements, if you can't identify all of the individual officers involved because maybe you couldn't see their badges, for various reasons, you can't recover.

There is a Supreme Court case growing out of the Jackson State incident. Many of you might remember where the police in that instance fired on a dormitory. The plaintiffs eventually proved all of the elements, but they couldn't prove the identity. So part of this legislation is to reverse that type of case, and I think you can realize that there is justice to be done in a situation where you can establish all of the elements of cause of action, and you didn't know which individual.

What we are talking about is not randomly placing liability on a policeman but, again under a *Monell*-type theory, on the governmental entity as opposed to having the laws fall totally upon an innocent victim. We are talking about that and people who are involved in risk management are moving forward because for years we have had municipal liability when a guard struck a prisoner and other things. This can and must be managed, and obviously we are talking about something that is very fundamental when constitutional rights are at stake.

One other thing is that in a lot of these cases I guess it seems to be obvious, but the elements spring from a denial on the basis of the rationale implication. Most 1983 plaintiffs are there because the situation involves unequal treatment on the basis of race, and the typical civil rights plaintiff is likely to be minority and poor. So you could add that to the other elements that Mr. First was speaking of when a jury is facing the question whether to award or not to award. And I suggest that the system now hasn't worked that well even though we have had progress as a result of Justice Brennen's decision in *Monell*.

Webber: I would like to respond to that just for a minute. I think it is important to note that risk management is a valid tool that can be used to help mitigate some of the very difficult problems that law enforcement has today. Time didn't permit an exploration of risk management and what its tenets are, and what it stands for, but nevertheless it is important.

I want to make one quick distinction. Those of us in government—not in police enforcement—might make a $100,000 decision, depending on our level of responsibility. We might make a decision of that caliber once a week, perhaps once a month, possibly once a year, but a police officer on the street makes a $100,000 decision or a life-and-death decision every day that he is on the job.

I think risk management is very important, and the basic definition of risk management is that you can minimize the adverse consequences of loss. That is nice. We talk about reviewing policies and other kinds of things, and risk management is a viable alternative to help solve some of these problems.

Question: As the energy problem gets worse, more people are going to move West. I understand the legal arguments; a lot of people out there don't. I understand the social implications; a lot of people out there don't. We are going to be the population

centers of this country in another 15, 20 or 25 years. We have different attitudes out there.

My question is, you can argue all you want about the legalities, people still carry guns on their hips out there. People still respond in different ways out there. All I am saying is that we have dead people in the streets. Most of them are black and brown. The men and women in this room are a little more sophisticated than most people out in that part of the country.

I come in here and I listen to legal arguments. There is only one thing. You leave us no choice, gentlemen. You leave us with anarchy. You are going to have to come to some decisions. Don't argue with us about legalities in courts. People are responding differently. This is not all of America. Please pay attention to us. We are trying to say you are killing people in Texas, you are killing people in California. We are killing people in Texas, we are killing people in California. We have to stop this, you and we. We are Americans. We are people. We have to come together and we have to decide that anarchy is not the answer. Legal arguments probably are not the answer. They take too long. We have to stop the killings tomorrow, preferably today. Please let's get together and talk solutions. Let's discuss that.

Webber: I don't believe Custer had to count all of the Indians before he knew he had a massacre on his hands. Sure I would like to discuss some solutions. Do you have a solution that you would like to throw out for our consideration?

Question: I will be happy to. I suggest a policy on the use of a weapon. I don't think you should shoot anybody running away even if they have committed a felony. There are other police methods to deal with that, especially when you have the community on your side because they are going to have to tell you which way he went. I think you should strictly limit the use of the word, "nigger", the use of the word, "spick", the use of any such words in any police department. That should be cause for several days off. If one officer does it, he should just be given days off. I think that you have to put peer pressure and social pressure on those people.

Another solution, I think you should take your police out of their automobiles and put them on the streets because we should let the community know that they are policing. Let us keep our windows open and lights on and let us look out. Take your policemen out of cars and get them down in the community. Let them talk to our youth. I mean your very basic things. Do you want me to go on and on?

Bieber: I think you present a very interesting set of facts, but I think it is important to look at the reality of life, too. You are promulgating a very interesting proposal. I think a lot of it has tremendous merit, but where is the realism of what you are saying? We look at one end of the spectrum. We see we are paying too much taxes, and Steve alluded to it beautifully, and that we want government to cut down on the amount of money and the amount of services that they are providing the community.

Programs can be set up. Policy statements can be written. Unless you have the professional individuals who acknowledge the use of these policies, unless you have the professional people who are going to put these things into effect and make them work and follow up on the things you are saying, you are just making a very generalized statement as to the broad concepts of what has to be done.

Now, you have the alternative. Do you want to spend the money to do what has to be done? Or do you not want to spend the money and let things stay status quo?

Question: Let me say one more thing, ladies and gentlemen. Maybe we should elect police officers.

AUDIO VISUAL PRESENTATION

POLICE OFFICERS UNDER STRESS: A TRAINING DEMONSTRATION

By

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Seattle, Washington

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Ozell Sutton: We're going to change the pace of the conference for this session and do something different from what we've been doing for the last two days. First, there is going to be an audio-visual presentation. This presentation will be made by a unique group of individuals from the firm, September & Associates. I think we're going to enjoy this presentation and also engage in some learning processes as to how police act and could act under stress.

I want to introduce the persons who are going to make this presentation. The chairman of the board of September & Associates is Lafayette Patterson. His colleagues are Dennis Pryor, Vice President in Charge of Production; and Mr. Harold Haley, Director of the Synthesized Media Environment Simulator. And he's also a training instructor with the Seattle Police Academy. Once the presentation has been made, our panel will react. Now we are going to turn the program over to September & Associates for their presentation.

Patterson: What we're going to do today is actually demonstrate for you a concept. What we have here is one-half of a synthesized media environment system, which usually consists of 24 projectors, controlled by a computer, behind three screens. Presently, I'm going to use 12 projectors, and all that'll mean as far as you're concerned is I won't have as many options to call up to put the officers through. And since we are limited in time and I want you to have the experience of seeing what we do—and then we'll get into explaining how we go about that—I'd like to introduce Harold Haley, training officer with the Seattle Police Department, who has personally trained over 1,000 police officers in the City of Seattle.

Haley: I would like to thank the local agency in charge of providing professional law enforcement for this area. I have two officers from that agency—I ask them to come out—the Montgomery County Police Department. We called them on very short notice and asked them to assist use, and they were very amenable to asking some of their officers to come out and assist us in demonstrating how the Shoot/No-Shoot system works. These two officers, I didn't get their names. I'll let them tell you who they are.

First Officer: I'm Officer John Torverse of the traffic division in Silver Spring.

Second Officer: Joe Anastacey, uniform patrol in Silver Spring.

Haley: Obviously, when we ask for assistance in demonstrating the system, they always send us their best. So, these two gentlemen are going to load their weapons with a little blank ammunition. Basically what happens is I have them load up their weapons with some blanks so that they can simulate actually firing at an image on that screen and having the interaction with their weapon. I go through a little pre-presentation that I'll do with them so that you can feel comfortable about guns being fired around you.

First of all, as the training officer, whenever an officer comes in to me for simulator training, the first thing I do is consider the safety of everybody present. So, I ask them to unload their weapons. These officers have done so. Now would you show me that your weapons are unloaded?

I am satisfied that their weapons are unloaded. That's a normal procedure that goes on at a firing range at any professional police department. That firing range officer considers safety first, and he makes sure that those officers have their weapons unloaded. Okay, now you can each load up with six rounds of blank ammunition.

We will conduct this as though it was a normal training situation at any police academy that provides professional training for its officers. These men have just come into the academy simulator, and I'm the training officer. We've gone through the preliminary procedures of weapons control and checking.

At this point, I would instruct them that they are now going to be required to interact with a scenario of police problems on these screens. The thing that I am looking for is their decision-making capabilities, their ability to make decisions, under stress, whether or not they should fire their weapons. Shoot/No-Shoot training is what this is all about. We're not concerned with marksmanship and accuracy at this point, but their decision to shoot based upon what they have seen.

Are there any particular questions you officers have at this point? Okay, I will, from time to time, ask you questions. Don't pay that much attention to me. Concentrate on those screens. If there is a situation where you feel your weapon should be fired at an image, go ahead and do so. I would like to have you consider three things in making your decision to shoot. First, is there a threat? Secondly, is the means to carry out that threat there? And, thirdly, is the opportunity present to carry out that threat?

If a man is standing 20 feet away from you with a gun in his hand, all three elements are generally present: the threat, the means, and the opportunity to kill you or somebody else. If you decide to shoot that individual, chances are that shooting would be justifiable. If that man is standing 20 feet away from you with a knife in his hand, the opportunity does not exist. So, to shoot him would be questionable in my mind because I would say, "What were your other options, including turning and running?" There's no law that says a police officer has to stand and take physical aggression if to retreat would solve the problem and save a life. And that's what we're all about: saving lives. It is not a disgrace to retreat.

Consider your options before you fire that weapon because once the trigger is pulled, you cannot reverse the event; and a life could be taken. Threat, ability to carry it out, and opportunity to carry it out; if those three elements exist, go ahead and do what you need to do to preserve the peace or protect life and property.

All right, with that in mind, we would like to kick in the system and start the scenario. You are a two-man team. You're responding to a situation where certain things will happen. Based upon what you hear in the audio portion of this incident, you will have an idea of what you should do when the video portions start. So, I want you to react to this as though it's live and the images are real, as if they can hear what you're saying. If you need to yell verbal commands—"Hey, you stop! Get out of the way! Put the weapon down!"—do so. Handle it exactly like you would on the street if this situation occurred and you were there. With that we will begin.

(After the demonstration, Haley continued.)

Haley: First of all, I'd like to say that they responded about normal. Very good. Initially this officer conferred with the other about what they were going to do. They did make contact and talked about it. I also observed what I as a trainer call anticipation movement; while there's nothing going on, you get the rocking, you get movement of hands. This officer wiped the sweat off of his hands. Obviously the stress levels were building.

This incident actually happened. The George Jackson brigade robbed a bank in Tukwila, Washington. The officer who happened into the middle of it was confronted with that type of weaponry, automatic weapons, the whole bit. He survived; I don't know how. Obviously, you cannot handle a terrorist attack with .38 weapons.

There are some decisions these officers could have made that would have been correct. They chose to confront these people. Even with speed loaders you cannot beat that type of armament. I think the proper decision would have been to say to the training officer: "I would not confront that situation. I am not properly armed for it. These are the options that I would take." But being a policeman—I know police nature—you do not back down. Backing down is a proper way to handle some things.

Sutton: What we will do at this time, while a different scenario is prepared, is have some reaction from the respondents to what we've seen already. We're going to ask them to just give us their views of what they have seen and how valuable it could be in training police officers. We won't call on them individually. We'll ask them just to respond as they saw it.

Quintanilla: First of all, this is the first time for us to see the film. So we are as new to the scenario as all of you are. And our comments are really going to be off the cuff. I'd like to ask a question. I'm sure that you have scenarios where citizens who are not criminals are portrayed. Am I correct?

Haley: Yes, you are.

Quintanilla: And I'm also assuming that you are dealing then with stress, causes of stress, but also in multicultural circumstances, which is an additional source of stress?

Haley: Okay, we have a scenario that we refer to as the "wolf-whistling" scenario. This is the type of interaction that a police officer might be confronted with, say, a white policeman working in an ethnically diverse community. Chicano or black. I know how black people tend to react and how they can verbalize and how they can use ethnic colloquialisms that might have an effect on the reaction of policemen who don't understand. That scenario tells us whether or not an officer has the capability to work in such a diverse community. If he does not, based upon how he interacts with the scenario, the training division of that police department then should be considering the kinds of training put together in conjunction with community people that would resolve that type of stressful relationship.

Quintanilla: Does your scenario include also the type of stress that a citizen is placed under simply by seeing an officer unstrap his gun as the two officers were doing in preparation for the scenario here?

Haley: We make the innocents in our scenarios react as a citizen would. In the scenario coming up, we make people that are not involved in this incident do things that would normally be done—run, yell back, ignore, do whatever—and watch how the officer reacts to that.

Quintinalla: All right. I come from the Houston area, and I have worked with the Houston Police Department. And we do have as part of our cadet training a two-phase program in which we deal with stress in multicultural circumstances. And we talk about what stress is, what the different sources of stress are, how the body reacts to positive stress, negative stress. And when we talk about components of a culture and how those components cause stress both in the citizens of the community and in the police. We try to encourage our officers to understand not only their own ability to cope with stress, but also how citizens would react and cope with it.

Boutwell: I think that September & Associates are certainly to be commended for making a fantastic effort to fill a need in police training today. I don't think anyone here—certainly in this room—has to be persuaded what a tremendous amount of stress the use of deadly force is, certainly on the part of the police officer. And we also know the incredible amount of discretion that's involved in these situations. And yet for an officer who is called upon to use deadly force in any given situation, it often turns out to be the most agonizing decision he'll ever make in a career. And when you read testimony, for example, of an officer in a coroner's inquest, considering the justifiable use of force, your heart can't help but go out to everyone, not only the family of the victim, but the officer who used deadly force and was sorry he did. Legally perhaps. Unwisely, yes.

So, what every law enforcement administrator has to be concerned about is not only the legal use of force, but, perhaps far more important, the wise use of it. And yet it's incredible today, I think, in our country that we have such a diversity of responses to the use of deadly force. It's almost an emotional issue even to discuss it with law enforcement officers. And certainly when you get in a national consultation that brings together community relations and law enforcement: What is the wise use of deadly force? It's not easy.

The response of state legislatures has varied all over the map, literally. The different responses in terms of policy—almost every department will have a different policy relating to the wise use of force. Unfortunately, there are many departments that have no policy at all and leave it completely up to the discretion of a recruit who has graduated from an academy to decide when to use force.

We're all, I think, competent in teaching the skills—that is, how to use, how to develop the skills, the trigger squeeze and so forth. And I think that we do a very good job in that. What is lacking, it seems to me at least in my knowledge and police training, is active instruction in when to shoot.

We talk about stress, and one of the big stressful factors of everyone leaving an academy is the role conflict. I think we do a reasonable job in telling people what should be done. We can point to the law and tell them what the law is, what the legal principles involved are. Sometimes we use words of art that

court decisions give us: use reasonable force. That's really helpful to a police officer, isn't it? Use reasonable force. What does that mean? What is reasonable? It's a word of art.

It's like probable cause; it depends on who you're asking and how many facts equal probable cause. Reasonable force; don't use excessive force. You can teach him the policy. And yet we know that just the policy is not, in and of itself, sufficient. As one administrator said, a policy that's not truly enforced is about as effective as a squad car with four flat tires.

The real key in this area is not only in telling an officer how to shoot but when to shoot. How many of us, when officers get out of the academy and they get to their first assignment, say, "Well, they told you what should be done, I'm going to tell you what's really done." The conflict between the really-do and the should-do is difficult to measure. And, yet, unless we give the officer some instruction, clear and positive, not only in how to shoot but when to shoot, we've done him and the community a disservice.

So, this presentation can create a simulation. For an individual who graduates from med school, the surgeon with whom he's interning doesn't say to him, "Okay, you can forget everything they taught you in med school" Why? Because he knows that it's so essential to do the job. It's absolutely crucial to know how to make the incision and sew up the wound and so forth. If our training is so job-related, so essential to do the task, then we won't have someone saying, "Well, forget what you learned in the academy. This is the real world, and this is the way it's really done." He'll know this is the essential part, the tools of the trade. And one of the big things, I think, and a major step here, is September & Associates' package that's so innovative and forward looking—I sound like a commercial. It's really not. I'm very impressed, and I think that the effort to teach our officers when to shoot is a major step in filling a void in police training today.

Saffold: I think the comments by Mr. Boutwell are very appropriate. I think sometimes the general public gets the idea that when you try to give indications of how stressful and how dangerous the job of a police officer is, you're sort of justifying actions in those questionable instances.

First of all, I would like to commend these gentlemen in what they're putting together as a training aid. But, as an experienced officer, I would want something coupled with it in terms of Mr. Boutwell's comments. I think many times there is not enough emphasis placed on those situations when delayed confrontation, if you will, might be more appropriate than a head-on confrontation such as the first presentation we got. Talking about going into a dark building where there is an armed man is crazy to me as a police officer. You must mean I'm getting ready to wait for the canine unit to run him out to me.

Talking about building stressful situations, sometimes training films give us that heroic attitude. I think many times police departments put more emphasis on passing out posthumous meritorious service awards than they do recognizing an individual who used judgment as the better part of valor, saved his life in the process, and in fact may very well have saved the life of the perpetrator he was in pursuit of at that point. I think it would do well—since the TV world is so intent on making us heroes—to have training films make us a little more human because 99 percent of our work is in that non-violent, non-immediate type of situation.

I'm reminded, as a resident of Chicago, of many recent killings of youngsters by police officers. And I agree that the stress factor is not too consoling to the family. Nor is it that consoling to the police officer.

But we've had a 15-year-old coming out of a building because a burglary was reported there. He just happened to live there and saw some plainclothes people at the front door kicking on it. He thought they were breaking in on him. So, he came out the window, and the police officer on the side of the building let loose with one of our famous shotguns and killed a 15-year-old kid who lived there. Another kid was shot in the back while being searched by a police officer.

These are not things that can be depicted in training situations unless you're trying to emphasize more whether to shoot as opposed to justifying in the minds of the public why you did. So, my gut reaction to the presentation was it's good for training purposes, but I think we need a little more emphasis on the real day-to-day situations that the public is questioning us about in terms of the use of deadly force.

Brennan: I have been a practitioner for some 22 years and I am also the elected representative of some 3,000 detectives for the City of New York. These detectives conduct criminal investigations and are called upon to gauge street conditions and, prior to assuming their role as detectives and investigators, spend many, many years in patrol. And based on conditions, of course, and operations and crises that face the city administration from time to time, they find themselves back in that type of situation. I applaud this type of program. I think it's a giant step forward.

I'm still required—because I'm still a sworn member of the department—to attend quarterly sessions at what we call our outdoor range and other training facilities. It's very, very basic shoot/don't-shoot situations. And while they're good, they have not approached the sophistication that apparently September & Associates has put together. And, again, I don't want to sound like I'm hawking the firm. I've never met them before today, and I haven't seen this film before today. But I believe it's a major step forward in taking today's technology and applying it to those decision-making processes that must be addressed.

That's the critical point here: when a police officer should use deadly physical force. And I think it's important not only for the police to be trained in situations where you can create, or attempt to create, almost the real thing. You can't create the real thing of course. And you can only use situations that occurred in the past and are based on hearsay evidence or on somebody's testimony as to what actually occurred. Then based on those case histories, you build the training forum.

But what I would suggest is to also bring the community into the training process. Not so much in instruction perhaps but at least so they would see exactly the type of training that is going on in your community and hopefully help to introduce this type of training, and perhaps have a hand in monitoring training activities that go on throughout a police officer's career. For example, in the academy situation you're bringing in recruits that I think in most departments in the nation enter at age 21. While

that may be a mature age in some occupations, for the type of work that's required of a police officer in stressful situations, 21 can be a young age.

Granted that we have veterans of combat who have seen, at 18, worse things than perhaps most of us will ever see. By and large, police officers have to act as individuals. Nobody can really tell them in the street or in the field when to shoot and when not to shoot.

So, in the academy setup, I think the community should have a part in the training process. I think a local university, whether it's public or private, should have a hand. And certainly for experienced officers, those men who have been in stressful situations, in shooting situations, another form of training should be set up. Again, involve the community and the university and anybody that has an interest in keeping the community safe for all citizens—police and non-police alike.

Sutton: Now we are ready to continue with another simulated situation.

Haley: We have one of our original officers back, and I would ask that we go through the same procedure. Let me see your weapon to make sure it's unloaded. Okay, I am satisfied.

His weapon is loaded with blanks. He understands the instructions about verbalizing with the screen. It's important that you yell commands. I teach at the academy to use a command voice and make statements like: "Hold it right there! Police officer! Drop the weapon! Stay where you are! Don't move!" Some kind of command that's clearly understood, not "Freeze!" That has been challenged, and I understand it's not a good term to use because people don't know what you're talking about.

Officer, this particular scenario is a one-man scenario. There will be some audio that you will hear initially that will set you up mentally for what you're seeing. And once the screams start, go ahead and interact with them, shoot/no-shoot. Consider the three things you want to deal with, threat, means, and opportunity. If they're present, deal with it. The information initially given will be the same throughout the entire scenario—Seven-Eleven Store at 8102 Greenwood North, and then there's some more radio communication, which is typical of radio, scratchy, you can't quite understand what was said. But all of the things that you need to hear to help you make your decision to shoot or not to shoot will be loud and clear. You will hear those. But there will be other transmissions that you don't know what they are. But that's the way it is on the street with the radio. You don't hear everything. So, with that, we'll try and get through this.

(Demonstration begins, and shortly there is a pause.)

Haley: What would be your decisions at this point?

Officer: My decision at this point is to let the man go. My life is not in danger. I couldn't see anybody else's life in danger.

Haley: That's correct. No weapon displayed, no danger. You would do the normal patrol things, chase them get canine, call for helicopter, get backup, do everything but shoot him. So, your decisions were correct in that particular incident. The next situation is coming up. The same location, same suspect information. You have just arrived, gotten out of your vehicle, and this is what you see.

(Demonstration resumes.)

Haley (During demonstration): What would you be doing?

Officer: At that particular point, I saw two people coming out. I focused my vision on the hands of both subjects to see if either one of them was armed, whether I could notice a weapon.

Haley: Okay, perfect. No weapon displayed. You have people running from a store. You don't know what's going on. What do you think the crime is at this point?

Officer: Armed robbery.

Haley: Armed robbery, okay. Remember that. Continue on. You just arrived again and here's the situation your're confronted with. (Demonstration continues.) There is an exchange of shots: I believe he fired about a split second before you did.

Officer: No, I don't think so.

Haley: Okay, next situation coming up. You just arrived at the store, and here's what you see. If he fires first, your're dead. If you fire first, he's dead. (After firing): He's dead. Very good. Okay, that was good. No verbal commands, however. Why did you shoot the second guy, because he's black or because he had a gun? You're laughing. Why?

Officer: Well, that's a facetious question. I shot the second guy because I saw he was armed.

Haley: That's all it takes. What did you think about the first guy that walked out? He matched the description initially given of the suspect. You never said anything to him. He just walked away.

Officer: He matched the description but he was either being super cool by playing nonchalant or a bad description was put out.

Haley: Okay, very good. Last situation. (Demonstration continues.)

Haley: (After shots): What went off first, the shotgun or his weapon?

Member of Audience: The shotgun, I'd say.

Haley: It gets them every time. Obviously, this is a smart officer. If this were an actual situation, we would not be standing on a little square in front of a Seven-Eleven store giving commands. We realize that. What I was interested in was his decision to shoot or not shoot. His decision-making, based upon what he saw, is good.

Sutton: If there are no questions for *September & Associates*, then we will see you tomorrow.

THURSDAY, DECEMBER 13

CONSULTATION FOLLOW-UP PROGRAM

Gilbert G. Pompa
Director
Community Relations Service

Gilbert Pompa

When we first conceived the notion of a consultation on police safety and force involving blacks, Hispanics, and the police, we really had no idea what this effort would entail. We knew for certain that an issue of police-minority friction was serious enough for us to take a chance to put it together in hopes of coming up with some positive results.

As a result, I mandated a national program which was to be operational over 10 regions to concentrate on responses to this issue. What could have been a fatal flaw in carrying out those efforts was our awareness over the years of lack of coordination between community leaders and police officials.

This concern was quickly corrected when Vernon Jordan of the National Urban League and Ruben Bonilla of the League of Latin American Citizens came forward and expressed a strong interest in coming together with the Community Relations Service to address this issue. The same concerns were registered by Attorney General Benjamin Civiletti, Henry Dogin, of the Law Enforcement Assistance Administration, and Drew Days, Assistant Attorney General of the Civil Rights Division.

As concerned individuals, police and community leaders, I think we have taken the initiative to provide the leadership and the resources to further humanize our society and create a safer climate for us.

Our original goal in this effort was rather modest. We hoped to initiate some relationships between two major minority groups in the United States and to get these two groups to interrelate with police officials from jurisdictions around the country; and, secondly, to develop a publication on the results of this meeting.

No one can deny that and more has been accomplished. We do not intend to let the matter die or lapse. But we also recognize that there are many other factors connected with the issue of police minority friction.

For example, there is the whole question of the litigation process involved, the legislation that might be contemplated, the investigation process, and, even more importantly, the funding process for efforts that need to be initiated beyond this conference.

We chose to deal with the most general aspects of the issue to not only initiate an approach but a biracial and bicultural approach to followup.

One area of followup is the targeting of certain communities around the country for joint working relationships between the Urban League, LULAC, police officials, and the Community Relations Services.

We look forward to working with you to make an impact on this issue.

Roscoe Nix *(Consultation Chairman):* A committee was set up by the participants to draft some resolutions to present to the Community Relations Service, Urban League and LULAC.

Spruiel White: The following represents the consensus view of the attendees at the National Consultation on Safety and Force: An Opportunity for Police/Minority Community Cooperation, December 11-13, 1979, Silver Spring, Maryland.

1. For conceiving and conducting this historic gathering, we congratulate and thank the consultation sponsors. They are the Community Relations Service of the United States Department of Justice, the National Urban League, and the League of United Latin American Citizens (LULAC).

2. The consultation made clear that the matter of excessive use of force by police is in many communities a very serious concern. Clearly, many persons in this nation are dying as a result of police discharges of firearms. It is of special concern to us that a disproportionate number of those persons shot by police are members of racial minorities. We believe that the only justification for the use of deadly force is for the protection of human life.

3. The consultation surfaced a large number of ideas and recommendations on how police and minority community cooperation can be enhanced. To preserve these contributions, we recommend that the sponsors of this consultation prepare and widely disseminate a report on the consultation. Emphasis should be placed on the areas of police training and testing, police/community communication, development of a national standard for the use of deadly force, and effective ways to adjudicate complaints and claims involving the police.

4. It is further the consensus of this consultation that the Attorney General of the United States should give the greatest possible emphasis to developing and presenting to the nation's law enforcement agencies, standards that may be adopted to ameliorate the problem of the police use of deadly force. In this regard, we recommend that the Attorney General develop these standards with the close cooperation of the representatives of concerned minority organizations and of law enforcement agencies.

5. Lastly, we recognize that a number of law enforcement agencies have in recent years taken concrete steps to improve their policies and procedures concerning the use of deadly force. But nationally the problem remains such that a concerted national effort must be initiated. We believe that significant programs to enhance police/community relations will result in a reduction of the needless deaths of civilians and police. That is the end of our statement.

SPECIAL PROBLEMS OF NON-URBAN POLICE DEPARTMENTS

MODERATOR

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PANELISTS

Gerald Fuller
Chief of Police
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Frank Reyes
Sheriff
Florence, Arizona

Cornelius J. Behan
Chief of Police
Baltimore County, Maryland

Hank Aguirre

The panel will deal specifically with problems of nonurban police departments or nonurban areas. Police departments have the same problems that I face in rural America simply because of limited resources, and the demands of new people moving in and changes in the particular areas.

I present Mr. Cornelius J. Behan, who is Chief of Police for Baltimore County in Maryland. Chief Behan holds the highest police position in Baltimore County, and is nominated by the County Executive and approved by the county council.

Cornelius J. Behan: My role is a slight departure from the topic on the desk in that I am supposed to talk about a rural police department that is in very, very dire transition.

Ten years ago as police chief, I would have talked about being in a rural police department and about nonurban problems. But we are changing very dramatically, and the old idea of reaction to problems can no longer exist. Now I am the manager of a large county police department, with a very clear mission of change which has come upon the county very dramatically and very, very rapidly.

The need to recognize, adjust, and develop productive approaches to these new conditions is the challenge we have, and like many departments in America we are suffering from every possible transitional change—industry coming in, increased population, changing crime patterns, and a change in the nature of the population as well as in volume.

The problem we had is how to change a police department not only to cope with today but to plan for the next 20 years. One of the most difficult and problematical things that faced us was that the people in Baltimore County were not ready for change nor were many of the police officers.

It is very hard when transition and change comes and many folks are still looking for the quiet rural atmosphere when the police were a service organization that took your cat out of the tree and were very gentle with you when you drank too much, and then to find they are enmeshed in crime and in traffic and a variety of other modern up-to-date problems. It is very painful for the citizen.

Likewise, to the police officers brought into the business under those same kinds of conditions in their working lifetime, the job has changed dramatically and to some, painfully.

People have always expected tremendous service but in an emerging police department the service is different. They want more from their government and police department without any increase in cost, they want us to stop burglaries, but they don't want to lock their homes. They look at all of the bad guys, and they want us to lock them up, but don't let them in their neighborhood. Don't put the jail where I live or anyplace near where I live, and, of course, they are not always kind to outsiders or welcoming outsiders in with their new businesses.

The population is predominantly white, 94 percent. However, black citizens are coming into the County in increasing numbers, and one of our precincts now is more than 50 percent black. So this density and mobility are of a great deal of concern and challenge to police departments. I approach this with a force of about 1200 people, sworn personnel, and several hundred civilians.

City crime has generally come to the suburbs, and since mid-1978, a national crime rise trend has been recorded—11 percent in serious crimes according to FBI statistics for the first six months of the year (10 percent in suburban areas). In Baltimore County it has been 14 percent. We are higher than the national average on the crime increase.

Rural areas can be deceiving. You come into these counties and things look peaceful, houses are far apart, with perhaps some good roads, and you get the impression it is rather antiseptic, rather quiet and very deceiving. That is a surface image only.

The city dweller is constantly trying to escape the crowdedness of the cities, the density, and comes to the suburbs and brings the problems they left in the city. This causes a great change. The population is transient now where before it was stable. Everyone knew everyone. Now, you will have burglaries committed by people not living in the neighborhood, and robbers coming in and out because of the roadways.

Baltimore County has seen an increase in employers, industry has come in, warehouses and things of that nature, and many countians now work where they live. Before they had to travel or work on the farms. Now they work closer to home.

That changes crime patterns, too, because of the simple reason that many of the local residents now will engage in crime, and before they did not. So how are we coping with this and trying to solve the problems?

We had to reorganize the police department. That was extremely important. Most small departments grow without too much thought based on how many people you wanted to put under a particular boss to make sure his rank is sufficient and give a proper promotion. Those things have to be put aside. The department has to take new direction. It has to deal with the functions and issues at hand.

Like many counties that are emerging, there was very little thought given to affirmative action, and there was no demand or pressure about it. Suddenly they turn around and find they have the Justice Department breathing down their neck and saying, "Why haven't you done certain things?" It is difficult for them to cope. Baltimore County is now reaching out to do that and has a very, very strong affirmative action program. We now are hiring minorities into the police department and into the governmental agencies.

We make over 15,000 arrests a year. It has to be done with a minimum of injury, without loss of life and with a minimum of violence. That is a very, very tough challenge for us.

A new shooting policy had to be developed and was. People were asked, "why do you want to kill, for what reasons, under what circumstances?" When you ask that in that context it is a difficult question to answer. People are not willing to say they want to kill for frivolous reasons, and from that develops a policy, and with that shooting policy develops a policy of constraint recognizing that you don't have to have the confrontations, the heated charges, and the macho syndrome. There are other alternatives you can use. With that came the hostage negotiation

concept. We have created a team in Baltimore County so now we try to save lives rather than take lives when we have people who are barricaded or kidnapped. We have 26 incidents a day. We have lost one life, and that was a suicide.

Policemen today are under great stress. It is not generally known perhaps but when an officer shoots someone, the officer is usually very, very seriously affected. He goes back to the back room, and you may have discussed this yesterday, and he discusses it with his buddies, especially if the case was a good case and it was a proper one, and he is told over and over again what a good job he has done. Internally he is dying because of the fact he has taken a life or he has just injured someone seriously.

We end up with too many in our business who become alcoholics and less than capable police officers after a shooting incident. Therefore, it is essential to have psychological services, and we have put that in in Baltimore County and have started to deal with the stress problem also, the many stresses that come with the job.

One of the things we have done in the County, is to make the crime prevention efforts a branch of the department. It is at bureau level. It is not in community relations, not tucked away someplace in operations, but at bureau level so that the whole county can see we are for crime prevention as well as apprehension. Let me leave you with two additional thoughts about why we have problems in law enforcement today. Of the many problems we have, whether we are emerging or not, perhaps the greatest challenge we have in law enforcement in the criminal justice system is how to handle recidivism.

In Baltimore County last year, of all of those people we arrested, 63 percent had been in the system before. We had our hands on them somewhere along the line, and they are back committing crime. Twenty-seven percent of those arrested were either on probation or parole. The figures go down something like this: For murder, 55 percent, more than half had prior records, and 7 percent was on parole. Rape, 16 percent on probation or parole. Robbery, 25 percent with prior arrests and 25 percent on probation. Burglary, 64 percent had prior records. Auto theft, 63 percent had prior records, and 36 percent were on probation or parole. That is a startling figure. We are dealing with the same people all of the time.

The methods we are using aren't working generally, and the challenge we have is what we can do differently. What I see is too many people taking defensive positions on what they have been doing traditionally for the past five or 10 years. Probation people talk about rehabilitating the same way they always did. They are certainly not working as well as they should.

The challenge we have in the future is to start looking at the state of the art differently, concentrate on mistakes, concentrate on the victim, why a person is victimized, by whom, under what circumstances. Are other alternatives called for to protect our citizens?

Every burglary or robbery can be considered a failure either of the criminal justice system or society in general, and I don't feel we are really facing it.

Lastly, the police chief in America doesn't have any way of staying in the business. The average stay for a police chief is two and a half years. He mounts a program and he is gone.

He is the victim of every political whim or change in administration, of so many forces in the society that have nothing to do with running a police department or agency. If he is modern and aggressive and runs afoul of different forces, he will still be eliminated. The result is that too many police chiefs hunker down. They have to take it easy because they want to survive.

If we want to make the criminal justice system strong, we have to make the police chiefs a lot stronger than they are.

Frank Reyes: Geographically, Pinal County, Arizona, is comprised of low Sonoran Deserts, high rugged desert mountains, foothills with dense chaparral growth and pine forest areas.

Within the county are three Indian reservations. The principal economic base is copper mining and agriculture.

The population is mostly located in small towns throughout the County. Most of these towns have their economic base mining or agriculture industries.

One notable exception is the City of Apache Junction, whose primary existence is based on retirement living.

The county seat is located in Florence, near the geographic center of the County. It is a town of about 2,500 persons, and county government and the state prison, are its principal mean of support.

The Pinal County sheriff's office is comprised of 140 personnel, 100 of which are commissioned officers or supervisors, working in police functions. These 100 officers are stationed throughout the county, working out of 11 separate substations.

The deputies handle what most people consider routine police matters. They are expected to maintain crime prevention patrols, residence and property security checks, detection and surveillance checks, interrogations and information gathering on suspicious persons or activities. They also respond to all calls for assistance, whether these calls are criminal in nature or of a general type. They, of course, respond to all criminal calls, conduct preliminary investigations, and write reports covering their findings. They are expected to maintain a high profile in their communities and become actively involved in community affairs and functions. They are encouraged to become involved with youth and youth activities and a high priority is placed on public relations.

Pinal County deputies are not only all around police officers, but are expected to become all around participating citizens in communities in which they live.

I think you can all see that we place a high priority on our officers as people and their need to become integral parts of the society they serve. I would have to be the first to admit that because we are dealing with personalities, we are not always successful in properly adjusting a specific personality into a community, but we do strive to fit or place people into a proper slot.

While people-to-people relations is a very important part of police work in today's society and a problem within our department, there are other factors which concern our operation.

In any part of government today, the principal problem any administrator faces is money. I could bore you with a long discourse on budget problems, the lack of money to implement programs, the constant squeeze to meet expenses in an economy

where prices are constantly going higher than anticipated, but those are not the kinds of problems this seminar wishes to address.

However, when you talk about any other problem, we are really talking about dollars. Because of the lack of dollars, we have problems that we wouldn't have if money was not a consideration.

Policing is a people business. What is desired is a well-trained, mature and experienced staff. If the officers fall into those three categories, their judgments are liable to be sound. To achieve this goal, however, an agency must have a high enough salary range and benefit package to attract quality people in the first place. You have a budget to set up and maintain quality training programs.

Finally, you must maintain a competitive edge with other public agencies as well as the private sector to keep your people so they can gain the experience that is needed. I am unfortunate insofar as I am not able because of the lack of dollars to offer monetary compensation to my deputies in the rural areas to make up for the attractions of living in a city. I cannot offer retirement benefits to compete with bigger city departments. These two factors contribute greatly to a high turnover rate. This means that my department gets a man trained and broken in, and he starts looking towards another department or a job in private enterprise. A high percentage of deputies are young, recently trained, and have a minimum of experience. When you couple these factors with the fact they are usually working by themselves with many miles separating them from the nearest help, I think you can see that the potential for violence exists.

I might not have to concentrate on ghetto patrol as much as a city, but migrant labor camps and poorer sections of rural communities present the same types of situations. A city policeman might not have to mount a major search in the desert for a lost rock hound, but mounting a search for a lost child presents him with parallel problems.

I may not have addressed myself to a specific issue that you have in mind for this conference, but I have chosen not to in the hope that I might answer any particular questions you might have in mind. I have tried to set a broad understanding of the general situation that I face as the sheriff of a rural county in Central Arizona.

I will mention that our ethnic and racial mix runs through the spectrum as found anywhere in the United States. However, we do not find this a problem. My agency and the people of Pinal County look at people as just people. We treat no one differently than anyone else. We hire people only on capability. We enforce the laws of our state fairly and equally. If there is any circumstance which arises involving an individual, I can be certain that the officer handling the situation does so in a fair and honest manner.

Gerald Fuller

I am from a very small town in Northeast Georgia; the population of my town is possibly 8,000 people. My police department is probably the smallest of anybody's here. I am sure it is. I would like to explain to you why I was invited here. I met a Justice Department investigator because over the past year and a half I have had several incidents where I have had officers involved with a minority type clash, and they were very poorly handled on our part because we had never been confronted by that before, even though my town of 8,000 is composed of approximately 20 percent ethnic minority groups. We have never had a problem with excessive force, the question of whether it is justified or not, and the people involved, including my department, have no internal investigations.

With 21 men, I can barely cover the streets, much less have someone specifically assigned to investigate any type of force situation. So we attached our problem by trying to conduct presentencing investigations and we were unsuccessful even though the investigations, I believe, cleared the officer in question. We never had the problem before and we didn't know that we should at each stage of the investigation sit down with someone from the community and discuss the problem and what was going on.

We were very close mouthed. "We will talk to you when it is all over with." We kept putting them off. The community began to boil, and it got almost to a breaking point. So there we were, and here I sat with 21 men, and I said, "Oh, my God, I have never been through this before in my life."

And so this investigator from the Justice Department came up and sat down with the community, went over it with us, and he tried his best to explain this to them. He helped me out a great deal, and I believe that is why I am here today because I saw that he was interested. I believe it is a great problem across the whole United States. It is the problem that is being attacked now, and I hope that it is successful, that we do learn to handle the use of force and know when it is necessary, and also to be able to discipline our officers. We have limited manpower at low wages. My men start off at $150 a week, and I challenge anybody to stand up and say that they have men starting lower than that. I have a very limited area of where I can pick my personnel from. That creates a low employee morale which can help create the problem in the use of force. We have a continuous turnover of personnel because of the problem; therefore, we are always in a training state in our department.

Then we have the involvement of politics. I know that all of you say how can law enforcement have political involvement? But when you are in a small department like we are, and I am sitting in my office and the mayor walks in and all of the commissioners walk in, and they know me and they know all of my officers, and they know everybody in the community, then it creates a problem for me having to answer to each and every one of them. And then I have to answer to each and every person that I know in the community. So there is the politics involved.

Also, we have involvement of the commission and what-have-you in the department's disciplinary action type programs that we have when we do have to have to discipline for something. We have the question of having to answer directly to each and everyone involved, as to whether my discipline was correct or whether it was enough or what-have-you. So therefore that creates a problem.

I don't think the larger departments have to answer quite as much as I do.

The officers have grown up in the community, everybody is familiar with them: therefore, when we do have a problem between an officer and someone in a minority group, they say, "I grew up with him. I knew him. He was always mean anyhow." Whether right or wrong you have to deal with that problem.

We have less mobility of the population, and, therefore, it is rather closed and isolated, and then we have the relation in the schools. The only school I have in my city is an elementary school, and all of the high schools and junior high schools are outside of the city limits, and therefore, we have a problem with our policemen having to deal with the people as they come into the town and then as they leave, and it creates a stress type situation because they feel like we shouldn't be involved in them whatsoever.

Let me tell you a few things I have tried to do since the two problems in my department. We operate a one-man patrol car system, and since we have had our problems any time we get a call, it is mandatory, unless the other cars are tied up, that another car always goes and backs up the man that answers the call. He is supposed to stand back and let the man handle the call, and therefore, he is supposed to act as an observer.

I have met with the community, the black community. I have met with black leaders. I am from Northeast Georgia, and my town has a population of 8,000, a 25% minority population but I do have a black mayor. I thought that you might find that interesting.

QUESTIONS AND ANSWERS

Gilbert Salcido: In the northwest we have a peculiar problem. When we walk around in numbers we get stopped by the local police and asked for our papers. There are a lot of people whose civil rights are being violated.

Reyes: We do have migrant farm workers in Arizona and also illegal aliens. My officers have verbal orders from me that if an illegal alien is seen he is not to be bothered unless he commits a crime. However, if we do receive complaints where illegal aliens are involved, we do use that as a tool to help with our problem, but the complaint has to come in first from somebody.

Charles Pratt: There are ways in which you can minimize the problem. Your LULAC group can help. We as police officers are now being told by the Federal courts not to arrest wetbacks. I have also instructed my people verbally to leave them alone. Put some of your LULAC people with your police, and when these problems come up the trooper has the advice and assistance to help these people who are migrant workers, who are in trouble anyway. Get a volunteer to work with the police department and you will solve your problems in a number of ways and be of great help not only to the police but these migrant workers.

Carlos Moian: Mr. Ruben Bonilla spoke of raids that the INS has made on U.S. citizens. Other LULAC members have comments on the harrassment by border control officers in San Diego, California, but I think everyone should know that the INS is using the police departments as instruments to detail or to enforce immigration laws.

First of all, not every police officer is aware of Mexican American culture. There are many of us who do not speak English. My father was born in Casper, Wyoming. He has to carry his birth certificate to show he is an American citizen. My brother, a United States citizen, was arrested in New Mexico this year because he looked like an illegal alien, according to the police officer.

There are agencies of the United States Department of Justice, such as Drug Enforcement, the FBI and the United States Immigration and Naturalization Service, who have all been involved in fatal shootings. I think my question is to any members of the panel, do you think they should be invited to this conference to defend their views?

Behan: I can't speak for the Federal authorities or wouldn't pretend to, but any time we have conferences of this nature where we share information, it is in our best interest to have the Federal people involved. We have been directed to interact constantly. Their laws overlap ours in many cases and certainly complement ours, and every interaction we have, it is my personal view, we don't have enough with the Federal authorities. I think we should have more.

I would like to make a comment on the larger problem. I can't address migratory workers, but I can address police. One of the problems we have in law enforcement in America is our selection, training, and education process. You can't expect attitudinal change from police unless they are paid properly and trained and educated constantly after they are brought onboard.

I have been in law enforcement for over 33 years. I have watched policemen change during that time largely through education and training. There are things we can do immediately in a particular situation, but they are only bandaids until we get people properly trained, screened and brought into our business and constantly updated. That is the only way we will improve. That addresses itself to shooting, the use of force, enforcement of the law, attitudes about different cultures. Many policemen go into culture shock. I know the first time I ran into Puerto Ricans at three o'clock in the morning beating bongo drums in the crowded street in the Bronx, everybody being awake, it took me awhile to understand that is part of the way they saw things. Once we understood that, that noise problem at three o'clock in the morning changed dramatically. This is just an example of the kinds of things we can do.

Jim Britt: I would like to address a question to Sheriff Reyes. What problems of a unique nature, if any, have you experienced on Indian reservations within your county?

Reyes: The problem that we face in our county in the sheriff's department is lack of information between the Indian police and our department. There is the misunderstanding of the jurisdiction involved. At one time the Indian police were calling us on every non-Indian criminal that was caught in a reservation.

Now, what they are looking for is an interpretation of the law. They are saying that they have jurisdiction over Indians and non-Indians at the time they are on the reservation. That is one of our biggest problems at this time.

Britt: I appreciate you are having that problem and it is a problem we are having in North Dakota, too.

I would like to make a brief statement as to the general problems I think we are generally having throughout the country with Indian reservations interacting with local law enforcement people and with Federal law enforcement.

In North Dakota particularly, and in the upper Midwest, we are seeing a great deal of development. Someone referred to the development taking place in the upper Great Lakes. A good share of this development is taking place on Indian reservations, and I for one am very apprehensive right now because in altogether too many of those situations we have a rather fluid situation where the various representatives of the communities, the Indian and non-Indian communities at best greet each other in passing when they meet on the street, but with very few exceptions it has been my experience they don't talk to each other. They don't really interact. They don't share each others problems and they don't by any means talk to each other about what their aspirations are for their communities, and their communities are one. You know in so many ways they live together, and when we have this growth that is going to take place, I know one of the reservations in North Dakota had a great number of oil leases, and I just read in the paper where the oil drillers are moving into the area and they are going to find oil. You know, I am sure of that. It is in an area that is generally known for oil production, and on top of that this same area has substantial coal reserves.

I, for one, am very concerned about the future when we see this development taking place, and at our present state of development we have a standoff between the various representatives of the two communities involved. And then if we superimpose upon that a significant amount of growth, I am afraid of what the consequences are going to be. I would like to see this group find some one way to expand its basis and to include a broader number of minority groups in its meetings and especially more representatives from the Indian community.

Hank Aguirre: One other problem we have on our reservations is that most of the reservations don't have a uniform criminal code. What works for one reservation might not work for the other, and that is in tribal law. That is one of the problems that we also find in our area.

Britt: I appreciate that every tribe has their own set of laws. and that is probably a problem that we have in bringing forth representatives from the Indian community because every reservation is a separate community.

Ray Gano: Do you have any minimum requirements for police officers in Florence? I am asking that because when I was over there, you seemed to pick up the Chicanos, pick up discards who had some kind of history of harrassment of police hostility against Chicanos and blacks from the coolies, and it seems like it has been a requirement that they be big and tall and that they be mean as hell. Do you have any minimum requirements now?

Reyes: How long were you in that area?

Gano: I still have my parents down there.

Reyes: How long ago?

Gano: About 15 years ago.

Reyes: The reason I asked that question is because that is one of the reasons why I was elected. I am not trying to brag, but I am the first Latino to have high office in our county, and the reason that I ran for sheriff of that county was because of the same problems.

I will not say that all of the problems have been eliminated at this time, but I ran against seven other individuals, and I had the same attitude, why wait for somebody to come from another state to be the sheriff of our county.

We do have requirements and the requirements are handled by a merit system in our county, which I have nothing to do with, and we are in the process of making changes to get more involved from our department.

Those requirements were established by the county seat and board of supervisors. The reason that the merit system came about was because of the same problem you and I are addressing right now.

Politics at that time was very strong where the sheriff had full control of who he hired and fired without anybody questioning as to the rights of the individual. Most of the people that were hired in the past were people that momentarily supported the campaign of the sheriff.

At this time they do take a written examination. They go through an oral board made up of police officers of command personnel from the different areas within the State. Then they also go through a polygraph, although I question the polygraph method of selecting our officers. I think that there is a future for Pinal County, and, hopefully, if I have enough time to make my ideas work we are going to see more qualified people than we have now, more qualified people than we had in past years. We do still have the problem of placing the right individual in the right committee.

One of my officers commented to me not too long ago that it is noticeable since I have been sheriff that we have more Mexicans and blacks in our department, and it stands out like a sore thumb, but I think he was really trying to give me a compliment.

I do have my problems. Everything is not rosy like maybe I gave you the impression, but I believe we are working towards a future and better goals.

PATHWAYS TO PROGRESS: OBSTACLES AND OPPORTUNITIES

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Executive Director
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John Mack

Ozell Sutton will present Dr. Lee Brown's paper, and the respondent to Dr. Brown's paper will be Dr. James Fyfe.

The second presenter will be Mr. James Damos, who is also the Chief of Police for University City, Missouri. The respondent to Chief Damos' presentation will be Chuck Stone.

The third presenter is Dr. Paul Takagi, who has done extensive research in the field of this whole area of concern that we are addressing.

The respondent to Dr. Takagi will be Mr. John Dineen.

The final presenter will be Deputy Commissioner Convoy, substituting for the Police Commissioner for the City of New York, presenting on behalf of Commissioner McGuire.

The respondent to his presentation will be Joaquin Avila.

Sutton

According to statistics released by the National Center for Health Statistics, United States Public Health Services, law enforcement officers have killed 3,082 civilians during the period 1968-1976. Since 1976, American police have killed an average of one person per day with 50 percent of these being nonwhites. These statistics indicate the need for several basic concerns to be addressed. First, incidences of discretionary use of deadly force by police officers are on the increase. Second, although blacks comprise only about 14 percent of the population of this country, they account for at least half of those killed by police. Third, there is a very definite need for public and organizational sanctions to ensure individual officer accountability in cases involving the use of deadly force.

The administration of a police department has the primary responsibility for developing and implementing departmental policy regarding deadly force. Administrative controls should begin with the development of a written policy which, above all, coherently defines the police role. This policy should be proactive rather than reactive. That is, it must be geared toward a police perspective involving an understanding of the realities of police work.

This policy must cover all aspects of the use of deadly force, but must be written so that it is easily understood by each member of the agency. It must be simply and equitably applied and must allow for officer accountability.

My recommendation is that a departmental firearms policy should authorize deadly force only in self-defense or in the defense of another, and only when all other means of control have been utilized. It is also important to clearly address certain specific circumstances such as juvenile suspects, moving vehicles, warning shots, drawing and displaying firearms and the use of shotguns.

Once a policy has been developed and distributed, it will be necessary to ensure that each member of the agency is thoroughly familiar with it. Training of personnel is the appropriate and necessary vehicle for interpreting and demonstrating the provisions of the firearms policy. According to a 1977 Police Foundation study, the best training programs seems to be those which teach not only how and when to shoot but also what to do instead of shooting. Also, the more impressive curricula are "those in which firearms policy training is spread among a number of courses and those that attempt to build in peer pressure to reinforce techniques in a positive manner."

Separate courses (apart from recruit training) are recommended to acquaint the officer with the legal and moral issues surrounding the use and misuse of firearms. Films, dramatizations and other audio-visual tools and techniques are useful in familiarizing recruits with firearm policies. In-service training on a regular basis also contributes to the acceptance of and adherence to the firearms policy by veteran police officers.

In addition to providing comprehensive training on how and when to shoot, the administration must establish procedures for the investigation and disposition of cases in which deadly force is used. Each department should have a review process for all shooting incidents, even accidental discharges. There are several reasons for such investigation:

First, public accountability demands that investigations of controversial police action be conducted.

Second, from the standpoint of internal control, the individual officer's action must be subject to review.

Third, and perhaps most important, a thorough investigation protects both the department and the officer involved from unjust criticism (Donnelly, 1978). To guarantee effective enforcement of a departmental firearm policy, it is essential to require that all shootings and firearm discharges be reported.

Investigation can be approached either through the regular departmental chain-of-command or through a unit such as Internal Affairs, or a shooting team can be used. Chain of command investigations may also be supplemented by a Firearms Review Committee, if necessary.

The departmental chain-of-command investigation may consist of simply making a report to one's superior officer. The superior officer then conducts the investigation and submits a report through channels to the chief, with each succeeding command level approving or amending the findings.

In an internal affairs investigation all the facts of the case are assembled, an investigation is made, and a report of the unit's findings submitted to the chief. In this type of investigation, no recommendations are made as to case disposition. That determination is made by the chief.

A Firearms Review Committee would have the responsibility for reviewing all cases where a weapon was drawn or fired. This type committee takes the responsibility for reviewing these cases away from the chief in order to centralize accountability.

Yet another investigative technique involves the utilization of a shooting team concept. This is a specialized investigative unit solely designed to study all police-related shootings. This concept is now being used in the Los Angeles, California, police and sheriff's departments.

The administration of the police department has the option of employing any one or a combination of the investigative alternatives previously outlined in order to assure the public and its officers that adherence to departmental firearms policy is both strict and immediate.

Serious consideration must also be given to the public perception of police and the role of the police in the community.

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Without good police/community relations, the police officer is often viewed as a threat and an intruder into the community. With blacks accounting for almost 50 percent of civilians killed by police, it is imperative that an attitudinal as well as behavioral change occur within the department.

Very often, situations which result in a death in the black community are not precipitated by the commission of a life threatening crime. Sometimes a stop for a routine violation such as traffic ends in the shooting or death of a citizen simply because the attitude of the officer generates fear and hostility in the individual. From that point, the situation usually deteriorates very quickly into one in which the officer resorts to deadly force. Once the process of fear, hatred and overt hostility has taken hold in the community, the officer ceases to have any chance of performing a viable public service. The officer who understands the basic problems of the community he is called upon to protect is more effective and less apt to resort to force than the officer who believes in crime control only through force.

However, the actions of individual officers in isolated incidences of firearms misuse must not be allowed to reflect negatively on the total agency in its concern for the community. The community must be made aware (through the media, perhaps) of the departmental policy regarding deadly force—that any officer who misuses his/her authority can and will be subject to the immediate investigative, and if necessary, disciplinary processes of the department.

Police administrators have the legal and moral obligation to insure that their officers understand and adhere to their policies concerning the use of deadly force. This understanding is vital to the continuing growth and development of our society, where each individual is guaranteed, within socially acceptable bounds, the right of life, liberty and the pursuit of happiness.

James P. Damos

As is evident from this conference, the use of deadly force by law enforcement personnel is of continuing concern to both private citizens and the police. The taking of any human life, whether the victim is an officer or a citizen, concerns me as both a citizen and a police chief. As a citizen, I regard any death as a loss; as a police chief I must also determine the reasons for that loss whenever an officer in my agency is involved as either victim or survivor.

Police officers are in a profession that makes unique physical and emotional demands, one of which is the legal obligation to use deadly force when required by both circumstances and the law. Police work is probably the only non-athletic occupation in this country where practitioners are subject to calculated violence.

In 1978, more than 56,000 officers were assaulted and 93 were slain, according to the FBI's Uniform Crime Report. Every officer knows these figures; the inherent danger of policing and its effect on officers is crucial to understand the role of the police.

We are also aware of the other side of the coin. According to the National Center for Health Statistics there is a reported 350 citizens killed each year by police officers. Other estimates place this figure as significantly higher. Whatever the actual numbers involved, when we consider the totality of this shared tragedy involving both citizens and the police, I think we recognize the gravity of our mission. We must work together to decrease these numbers. We must move out on the pathways to progress together.

For the police to better meet the most critical demand made of them—the use of deadly force—proper direction and training is obviously required. No one can rebut that. Let me discuss the matter of agency direction and the training of personnel in the use of deadly force.

The development of written departmental guidelines defining the appropriate use of deadly force is at best an arduous task. There have been many efforts to establish a national guideline or a model policy statement. However, this task is complicated by differences among states in terms of criminal laws and statutes. As you know, state laws fall into one of four categories with regard to the use of deadly force by officers: one of which "reasonable belief" or "sufficient cause to assume" are critical issues.

In other areas, there is the forcible felony statute. Seven of our states permit the use of deadly force only in relation to a "forcible felony."

The Model Penal Code is operative in seven states, where degrees of danger is the key element in the use of deadly force.

Another aspect is we have twelve states of the nation that have no state statutes relating to justification on the limitation or the use of deadly force.

Considering the present legal situation, it is not possible to establish a uniform definition of what constitutes felony much less whether deadly force can be used to prevent its commission.

If it is difficult to write a rule to outline the proper employment of deadly force, consider how much more difficult it must be for the officer in the performance of his duty to make a split-second decision whether to use deadly force. The times an officer may be required to make this type of decision in an average 25 year career can be counted on the fingers of one hand. Various studies have shown that an officer will use deadly force only once or twice in a 25-year career, depending upon the city in which he works and the nature of his duty. So "the decision" we are talking about is indeed one which is made only a few times by a given individual in his or her law enforcement career. However, it must be pointed out that while the use of deadly force is rare for the individual, decisions not to use deadly force are also everyday events for every police officer.

Let us now take a closer look at the various processes an officer goes through and experiences in arriving at the decision of whether to use deadly force. There are four elements in this process:

Perception wherein an officer forms a "mental set" of the current situation.

Another aspect is evaluation of the process. Here the officer compares his perception of the current situation against several important criteria, such as his or her departmental guidelines, the immediate risk or harm, and alternate methods.

Another aspect in this process is the decision itself where the actual commitment either to use or not to use deadly force is made, and, of course, the last aspect would be the action oriented part of the process. If deadly force is to be used, the officer must exercise the highest degree of care and proficiency possible.

This decision is a very complex, multi-faceted, almost instantaneous process. The consequences of this mental process have grave legal, physical and emotional implications for all parties involved, which extend far beyond the moment of decision.

In the effort to maintain the highest levels of training for law enforcement personnel on this issue and others, the IACP publishes a series entitled the "Training Key" which is used in roll call training, formal classroom instruction as well as individual study programs for police officers.

Two recent issues in this series have been devoted to the topic of deadly force. Training Key No. 277, entitled "Use of Deadly Force," deals with the potential legal ramifications resulting from the use of deadly force. It tells the police officer that he must be aware of the conditions under which deadly force can be used as well as the potential legal implications of his action.

Training Key No. 278, entitled "Improper Use of Deadly Force," informs the officer of the legal and civil consequences of alleged improper use of deadly force. It is through the efforts such as the training key that the IACP seeks to provide training to the law enforcement officer on the issue of deadly force.

These publications are directed at the street level officer because it is he who most frequently is involved in situations that could result in the use of deadly force.

During the recent annual IACP conference in Dallas, Texas, the National Organization of Black Law Enforcement Executives submitted a resolution on the police use of deadly force. The resolution called for police departments and other law enforcement agencies to formulate strict policy guidelines governing the use of firearms. And. . . "that these policy guidelines be based on the principle that officers may not draw or discharge their weapons except to protect their lives or the lives of innocent citizens from imminent danger," and ". . .that police departments design and enforce sanctions against those officers who unwarrantedly discharge their firearms." Further, "That police departments establish mechanisms to ensure proper investigation of all instances of the use of deadly force.

The resolution was voted down by the general membership because of two factors. The first factor was that the resolution failed to include sufficient language to place the responsibility for the investigation in firearms misuse cases. The second factor leading to its rejection was the legal complexity it would create for administrators relative to adherence to their own state statutes in cases where deadly force is used.

A reworded version of the resolution was submitted to the IACP Board of Officers for forwarding to the Executive Committee for consideration at its October 22, 1979 meeting. The IACP Board of Officers has tabled this resolution in view of the fact that four LEAA grants had just been awarded to examine the use of deadly force from both minority and law enforcement perspectives.

I want to commend Attorney General Civiletti for his commitment "to work with police officials across the country to develop a sound policy and useful guidelines for the appropriate use of deadly force."

Another aspect of the IACP commitment of the study will be to survey state police and highway patrol agencies to obtain data and information on the agencies' general orders, rules or regulations relative to the use of deadly force, training in the use of firearms, and the maintenance of weapons.

Another aspect will be a review of firearms and related training programs, their nature, their frequency, and their impact on the officer. Here again, we don't know the impact of "officer survival" training on an officer involved in a situation in which deadly force may be necessary. On-site studies of certain agencies to obtain a better understanding of the relationship between the complex of variables acting on an individual officer and the decision to use deadly force are being made.

This approach combined with the knowledge to be gained in working with the other groups on this project will allow for a detailed analysis and review of all relevant factors concerning the use of deadly force in our complex society.

From the data collected, the IACP hopes to develop a model of hypotheses about those identified variables and factors which influence the police use of deadly force. The conclusions of this overall study representing four different perspectives should be of tremendous interest and value throughout the criminal justice system and to the public at large.

I also want to commend the Administrator of LEAA, Henry S. Dogin, for the support given to the four groups involved in this study: The IACP, the National Urban League, the National Council of La Raza and the University of California at Irvine. This unprecedented approach to research indicates a concerted determination to face up to the need to do something about a grave problem.

The overall purpose of the work to be undertaken by IACP is to identify the factors surrounding the use of deadly force in law enforcement, determine how these factors interrelate, and develop model policies and techniques which will reduce such deaths while protecting the officer's safety.

The associations' work on this study will be designed to avoid duplication of effort with regard to the other grantees' efforts and will take advantage of previous and current research done on the topic. The association's study will include a review of police agencies serving the 57 population regions in the United States with a population of 250,000 or more to obtain data and information relative to the type of firearms used, the ammunition employed, and the effect of related equipment on the decision to use deadly force. We don't know, for example, what happens in a department where all officers are issued protective body armor.

In closing, I would like to congratulate the person who named this conference *"Pathways to Progress: Obstacles and Opportunities."* It indeed describes the position in which all of us, private citizens and police officers, find ourselves—aware of the problems involved with the use of deadly force, but willing to combine our resources for a common goal. For one of the

obstacles that should not be overlooked and that should be verbalized is ourselves. We bring our obstacles with us—our personal concerns, experiences, histories, biases, and professional attachments.

But we also share an opportunity for the value of human life. It is this value which unites us and serves as the foundation of this opportunity to cooperatively search for ways to save lives.

Dr. Paul Takagi

In keeping with the theme of the panel - Pathways to Progress, what I would like to do this morning is to share with you what two communites are doing on the West Coast with problems of citizens' complaints against the police.

The first community is Berkely, California, which has adopted a civilian review board. The other community is Oakland, which is considering right now the adoption of a police review board.

The potential adoption of a police review board in Oakland, California, has caused an enormous amount of conflict and on December 4, 1979, about 450 Oakland police officers, black and white, some with families, marched around the City Hall to demonstrate their opposition to the adoption of a citizen police review board mechanism in Oakland.

Now, the purpose of this paper is to analyze why Oakland is deciding on a police review board as the mechanism to control police use of excessive force. I think the analysis of what is taking place in Oakland is important because what is being considered is a political solution to the problem as contrasted to the human relations or management approach, which the previous speaker alluded to, funded by LEAA in the sum of $600,000.

These piecemeal type reforms in the past have failed to reduce the image of the police as a genocidal force in the black and brown communities.

What I would like to do is to point out that some of the political leaders in Oakland recognized the limitation of an internal reform of the police department and some other kind of procedure that is necessary.

In the next part of the paper I give a brief history of police review board experiences in the United States. The first police review board was established in Rochester, New York, in 1963, and New York City adopted one in 1965, and that one was immediately shelved after the Police Benevolent Association carried on a successful campaign to eliminate that.

The other well known police review board experience was in Philadelphia, and that particular system depended upon the police for fact finding. It was not supported by the administration and, of course, it faced a great deal of hostility from the police association.

Now, this has generally been the picture of police review board experiences in the United States. So based on the rather dismal history of police-civilian review boards in this country, I think it is an important question to ask why Oakland at this time is considering a civilian review board.

The Police Foundation survey of police shootings in the seven cities showed Oakland is no worse or better than most cities its size and population makeup, racial makeup. As is the case in most cities, black suspects are regularly reported as victims of police shootings. Of the six police killings of civilians that occurred in 1979, the Melvin Black case, a 15 year old black youngster, unarmed and shot in the back five times, could not be simply dismissed as another "justifiable homicide" even after the United States Department of Justice investigation had ruled against any civil rights violation.

What police strategists fail to understand is the seething anger that is felt in the minority community following each police shooting incident. While officials can explain to their satisfaction the incidents on a case by case basis, the minority community view them as a structured pattern of behavior that is based upon race discrimination, and the incidents as they occur deepen their belief that the police are committing genocide. Criminologists, in confusing empiricism with science, are contributing to the problem as their works are not informed by a presumptive theory of society and the role of the police. Police use of deadly force cannot be explained or predicted by aggregating data on police shooting incidents or on the victims and subjecting the data to statistical manipulation. This has been the methodological procedure employed in recent studies of the phenomenon, and this pretension at science has obstructed an understanding and a solution to the problem.

When the Melvin Black killing in Oakland on March 17, 1979, was followed by the killing this time of an armed black person, again with multiple shots, hundreds of people representing organized labor, community organizations and civil liberty groups, expressed their anger by calling a press conference in front of City Hall, pointing to the absence of any real control over police behavior and the need for a system that would prevent the further killing of citizens by the police. Mayor Lionel Wilson met with the demonstrators and publicly promised that something would be done.

The Mayor's promise cannot be construed as an impulsive response to an emotionally charged setting. It was, however, a promise made in front of TV cameras and a large crowd of blacks and whites. The suggestion that the Mayor had in mind a political solution is evidenced by the fact that he was knowledgeable of the limitations of an internal reform within the police department, given his experience as a long time practicing attorney followed by 16 years on the criminal bench.

He knew George Hart, the Chief of Police, to be sensitive and responsive to the needs of the community, and that the existing gun policy, with the exception of shooting at fleeing felons, was one of the tightest in the state.

Mayor Wilson recognized that the police use of deadly force had to be confronted. It was not a question of limiting the use of forearms by police officers because there was the more serious problem of a community deeply divided along race and class lines precipitated by police shooting incidents.

The political problem for the Mayor was what could be done to restore the citizens' faith and confidence in the local government. The Mayor proceeded to appoint a nine member citizens committee, and they proceeded to hear the variety of kinds of procedures that exist in processing citizens' complaints against the police, and three models were finally considered:

1. The ombudsman procedure in San Jose.

2. The Grievance Officer procedure in Ann Arbor, Michigan.
3. The Civilian Review procedure in Berkeley, California.

Following the deliberations, a task force committee recommends to the Mayor and to the City Council that a Civilian Review Board, be adopted in Oakland.

Given the rather dismal experiences of the police civilian review board experiences in this country, I then went and did some research on some experiences of the Berkeley Civilian Review Board. The citizens voted for it in 1972, and it has been quietly operating for the last seven or eight years. It has withstood two legal challenges, and at the present time it is a regular aspect of city government.

In assessing the experiences of the Berkeley Police Review Commission, as it is called, it becomes clear that the adoption of any mechanism or any policy does not automatically produce the desired result. It is just the beginning. The process of an investigation and the public hearing of a citizen's complaint against the police bring to light not only the department's guidelines that govern police behavior, informing the public on the nature of police work on the one hand, but the review process also reflects the community's interpretation of that behavior, informing,on the other hand, the department on the kind of police work that is desired.

The review process is an ongoing developmental police-community relations program that demonstrates that law and social policy are highly flexible elements subject to interpretation. There is frequently no right or correct answer and ultimately the community and the police together forge a practice, which, in turn, is not necessarily etched in stone.

There are a couple of cases in Berkeley where a citizen has brought a complaint against the police. The kind of problems that emerge in that hearing, and the thing that impressed me in talking to the poeple who operate the police review board, is that this is the only procedure where both the police officer and the citizen are granted a fair and impartial hearing based upon law.

The question frequently comes up, was there a reasonable justification for the police officer to have behaved the way he did? The second question is was there probable cause for the police officer to have done what he did. These are legal points so that the frequently heard criticism that the citizen does not have the wherewithal to judge police procedure is not supported by the kind of evidence I was able to gather with respect to the Berkeley review experience.

The point is that here both the police officer and the citizen are subjected to the principles of law, which is supposed to be the system that governs our society.

It is difficult to say how an internal affairs investigation would handle the kind of complaints that are being handled by the Berkeley Police Review Commission. But there continues to remain the problem of the public's confidence in that kind of a procedure. And given the image problem that the police have today, a quasi-legal public hearing by independent investigation is the only method that exists today, short of going to court, that can address in an equitable fashion, the inevitable conflicts that arise between the police and the citizen.

Police use of deadly force will continue (as it has in Berkeley), regardless of the kind of mechanism adopted to process citizen complaints against the police. The crucial consideration is, "What mechanism will provice both the police officer and the citizen a fair and impartial hearing?" and, "Does that procedure contribute toward social integration, or at least begin to heal the anger and distrust that are so deeply felt toward the police in segments of the population?"

One final comment I would like to make is that in the Baros Adida case in Oakland and also in Melvin Black's case the United States Department of Justice was called in both cases, and has ruled there was no violation of their civil rights.

It seems to me that an investigative agency cannot make that determination. These are questions to be determined by citizens, in other words, by a jury. What I would like to see established after study of both the Berkeley and Oakland Police Review Commissions, after Oakland has adopted hers, is that there be established at the national level something like the Federal Civil Rights Commission but be called the National Police Review Commission, and when complaints are lodged with the United States Department of Justice an independent investigation is conducted so that the determination of whether the civil rights of a person has been violated may be made by that commission and not by an investigative agency.

Kenneth Convoy

The spirit of animus that tragically exists too often between the police and the minority communities of urban America has its roots in complex elements of public policy and publuc perception that coalesce to stimulate confusion, anger and real fear in the relationship between police and citizens.

To the extent that public policy encourages such hostility and suspicion, that policy must be reformulated by police administrators. To the extent that a false public perception of police policy and procedure encourages such animosity, that invidious and destructive perception must be corrected by the community's leadership. Thus stated, the problem appears deceptively simple to address, through a process of systematic analysis, dialogue and reform. At the core of the issue, however, is a dense and volatile human dimension, replicated in tens of thousands of variations, in an entire police force, and a whole community.

So the various reforms I might suggest are fatally flawed, are nothing, if the patience, and reason, and good will of the men and women of our police force and our neighborhoods are subverted by arrogance, emotion, and political expediency, in the human environment in which such reform is asked to flourish. In the final analysis, progress toward ethnic and racial harmony in our inner cities will come only if the police leadership and the minority community leadership sponsor such progress jointly, and do so resolutely and indefatigably, with a sense of mutual respect and common cause. This is the indispensable condition for true reform.

What specifications of reform should we consider?

The first is a police standard for firearms discipline that is the most restrictive and prohibitive possible, consistent with an absolute commitment to the safety of the officer. In New York, we have imposed upon our officers by administrative rule firearm discharge guidelines which are more restrictive than standards laid down by law.

Under State law, peace officers may fire at a fleeing suspect if there is reasonable cause to believe he has committed a certain felony. Our rules authorize an officer to fire only if his own life or the life of another is in imminent danger. In other words, the justification provisions of the Penal Law allow the weapon to be used offensively to apprehend certain felons. Our regulations allow the weapon to be used only defensively, to prevent injury to the officer or another person.

We do not permit our officers to fire at moving vehicles, except if the vehicle is being driven at the officer, and we do not permit them to fire warning shots in the air. The purpose is obvious: We want to minimize danger to innocent bystanders, and we want to avoid the taking of life of mere suspects, even if such a suspect thereby escapes, since one tragic mistake made honestly in the slaying of an innocent person is too high a price to pay for efficiency of apprehension. This kind of self-imposed normative standard engenders among the neighborhoods of our city confidence and pride in the professionalism and decency of the police. But all its value can be destroyed if in the wake of a shooting, involving on the part of a police officer as honestly perceived need to fire in self-defense, the minority leadership, in the rhetoric of self-interest, belittles the rule and arraigns the procedures of the department as corporately racist, and descends to the "execution squad" level of public discourse.

A second specification of reform is the establishment of a formal, permanent and comprehensive procedure to officially assess all discharges of weapons, even those where no one is hurt, where the circumstances make the firing putatively accidental, and where the officer discharged his weapon upon the arguable need to summon assistance.

Such a mechanism must consist of both criteria and forum to systematically judge on an ad hoc basis the justification, in light of guidelines, for each case of weapon discharge.

In New York we have established a Firearms Discharge Review Board, comprised of service chiefs and civilian commissioners, that implements in case by case review an elaborate and detailed set of operational guidelines. These judgments, which formally hold whether a discharge was within or outside the guidelines, constitute an ever growing body of controlling precedent, which instructs prospectively by retroactive analysis of facts surrounding the discharge in question. Future conduct is thereby conformed to the guidelines, as interpreted and clarified by the Board in real cases. Abstract and theoretical norms thereby become practical, intelligible and flexible.

Our firearms training cycle requires every member of the force to undergo annual instruction which is predicated, in part, upon video taped scenarios based on real cases passed upon by the Board.

Thus, we promulgate and inculcate in our officers, both practical nuances of firearms discipline and the heart and soul of our firearms policy: That human life is sacred, and its preservation requires the most careful and circumspect application of judgment before the trigger is pulled.

I am pleased to note that since August, 1972, the month in which the Board was created, individual discharges of weapons by New York City police officers have decreased by 62 percent.

A third specification of reform that is critical to public confidence that justice will be done in cases of shootings or other use of force by police, is the establishment or procedures that insure independent, objective fact-finding, and of equal importance, the appearance of fairness and objectivity in such investigations. The history of liberty is the history of procedural safeguards, and the integrity of procedure is at the vital center of the lawful exercise of the police power in any enlightened State.

Foremost in any conception of procedural integrity is the question of who ought to conduct such an investigation. In New York City, we have resolved this issue in favor of the tremendously enhanced credibility to be accorded an investigative finding by a non-police but professionally competent alternative to headquarters: The district attorney and the grand jury. Indeed, our department has additionally welcomed and fully cooperated with Federal inquiries in police actions that sadly resulted in tragic loss of life.

Over the years, indictments have been returned for excessive use of force by some police officers, and total exonerations have been found in other, far more numerous cases. But what is superior in societal interest beyond verdicts in individual cases is the quality and integrity of the investigative process and the solidity and credibility of the issued findings.

The obstacle to progress is obvious. If the rhetoric of police unions assail the district attorney as biased against the police officer because of "politics", and the community leadership assails the district attorney as a co-conspirator in a whitewash, the fragile equilibrium of the process is destroyed. What is essential in the face of an inadequate or dishonest investigation is not generalized rhetoric designed to convince a community that it has been betrayed by its institutions of justice, but a systematic attack thoughtfully carried out upon the investigative findings themselves. To be sure, such a tact is more demanding and less galvanizing than lurid oratory hurled forth over a megaphone. But it ultimately serves the community far more nobly than devisive appeals to despair.

A fourth specification of reform is allied to that just alluded to. All allegations of police misconduct made by civilians, whether or not they involve the use of force, must be carefully, thoroughly and objectively investigated, We in New York have created a Civilian Complaint Review Board, comprised exclusively of civilians and appointed by the police commissioner, to provide three critical services to the department and the public.

The Board makes findings on whether, after its investigation, the complaint is substantiated, and if so, it recommends to the police commissioner the filing of charges that could lead to the imposition of a penalty ranging from a reprimand to dismissal from the service. The Board meets with the aggrieved citizen and attempts, in minor cases, to conciliate differences between the officer and the citizen. And the Board maintains aggregate profiles of officers whose behavior has been the subject of numerous or repeated complaints from different citizens as the officer's career progresses.

In this connection, the Board plays a vital role in our Personnel Bureau's early warning system for identification of the violence-prone. Such information, when viewed in tandem with disciplinary problems experienced by the officer in his various commands, his absence record, his overall evaluations, and his history, if any, with the Firearms Discharge Review Board, may lead to a decision by headquarters, or his own commander, to refer him to our Psychological Services Counseling Unit. If this process is unavailing, and the officer's negative interaction with the community continues, he may be removed from the police service under the statutory disciplinary powers of the commissioner.

A fifth specification of reform seeks to deal with those manifestations of personality in an officer that may render him disabled or totally unfit to deal with the pressures of policing in the dense and stressful environment of our inner cities. Accordingly, we in New York have inaugurated a formal, three-tiered psychological testing program for all new applicants for appointment to the police service. The program provides for written psychological testing and personal interview, review of appropriate cases by independent clinical psychologists or psychiatrists, and final review by a Candidate Review Board that is exclusively professional in character, comprising two psychiatrists and a psychologist.

A far more ambitious program is being designed for those already on the force. It is now a widely accepted principle of the social and physical sciences that policing is one of the most stressful occupational categories in America. And, indeed, the emotional strain on police, across the entire spectrum of personality, age and background, has increased by quantum leaps in the tensioned, highly complex environment of American urban life.

We believe that essentially reactive programs in dealing with the consequences of stress are invariably too little too late. Little is known about how to identify, intervene and treat in the threshhold stages. We are failing to identify and reach in a timely fashion most of the officers who would benefit from assistance. If one considers the number of contact each officer makes with the public each day, one may appreciate the impact of unseen problems upon community relations and police productivity. And a criminal prosecution is no comfort to the parents of a child killed by an officer who was too quick to fire his weapon, or perhaps too jittery or strained to carry it in the first place.

Accordingly, we have submitted a grant application to the Law Enforcement Assistance Administration to develop managerial, operational and medical mechanisms to identify, isolate and deal with the stress factor in police work.

Our policy in this area is a warrant of concern about and commitment to the community we serve. We expect and need constructive support from both the police unions and the minority community leadership as we design and implement this program.

A sixth specification of reform ought to address procedures for the handling of emotionally disturbed persons who repeatedly come to police attention in any urban area.

Oftentimes, the disturbed person has broken no law. Yet, because of his disturbed state, he represents a clear threat to himself and to other citizens, in addition to the responding police officer. By the end of this year, in New York, we estimate the number of police calls for assistance in dealing with emotionally disturbed persons will approximate 20,000. Many of these people are not violent prone and the vast majority of such cases are handled without injury to anyone. Nevertheless, we have implemented new procedures designed to afford better protection to both our police officers and the emotionally disturbed persons subject to police intervention.

These measures require that if time permits, a supervisor shall be called to the scene to direct police handling of a violently disturbed person. Emergency service units, especially trained in the use of mace, are also to be summoned. If necessary, an interpreter is to be brought to the scene. This approach closely parallels police response to a hostage situation, where patience, caution and time, most critically time, are utilized to calm the subject, defuse the potential for violence, and resolve the confrontation positively and professionally.

We have revised our Police Academy curriculum to include subjects on psychotherapy and methods of dealing with violent, psychotic behavior. In-service training programs for patrol supervisors also emphasize such material.

I believe all these reform proposals are germane to our deliberations in this conference. I welcome your critical appraisal of them, and rejoice in our common endeavor of bridge-building between policeman and citizen.

Chuck Stone

Chief Damos' paper was a very thoughtful and professional analysis of the problem. His statement that all of us have shortcomings, was not comprehensive but still sparkling with a couple of gems worth focusing on when he spoke of the shared training difficulty. We must work together to reduce the number of people killed, both civilian citizens and police. He spoke about the obstacles. We bring our obstacles with us. That was my way of interpreting what that means, the sum total of our professional myopia, our emotional hangups, likes and dislikes, our hatreds, our prejudices, and most important of all, our racial predelictions. That is one black man's way of saying most white folks are racist.

I would respectfully raise an issue with two points the police chief made; one, that officers will use deadly force once or twice in a 25-year career. The officer has nine lives like cats and in nine years use excessive force quite frequently in Philadelphia. I would submit a small minimum of police officers use deadly force more frequently than their colleagues, and that small minority are responsible for the tremendous incidence of police brutality that has taken place in places like Houston.

Secondly, I would submit the policies outlined in the resolution were not in conflict with state law since state law is prima facie superceded as administrative clarifications which don't exist in many jurisdictions like Philadelphia.

I think the IACP ought to overcome its racial backwardness in failing to realize that black police officers certainly as fellow professionals are not going to promulgate any policy that would in any way diminish their ability to enforce the law. Black police officers are not suicidal. But I would suggest, however, as members of the nation's most persecuted minority by policy and insituations, that black police officers are working just a little harder to reduce the unwarranted use of deadly force.

Chief Damos spoke eloquently of the obstacles and imperatives for solutions. But, unfortunately, for my mind, he did not spell out specifically the mandated guidelines, what should be done for the unwarranted use of physical abuse and deadly force, because police brutality is a far more tragic fact of life in minority communities than excessive use of deadly force.

Perhaps I come to this conference, however, with pavlovian exposed nerves. I have lived in Philadelphia for the past year under a mayor who boasted in 1975 that if he were reelected he would make Attila the Hun look like a fagot. Aside from his bald bigotry, he is probably the most bigoted person in this country, and I think just as the buck stops here, the climate of the country begins with the White House.

Our attitude towards the Iranians and what we do in Iran has been governed by President Carter. He has been a moderating force and does a tremendous job. What the police do, is guaged by the police commissioner and a mayor who says he can make Attila the Hun look like a fagot. There is no such thing as police brutality, and the police are always right. There is no moderating influence. We have summed up the obstacles that stand in the way of improvement in police administration. We have serious solutions to those obstacles.

No. 1: That police administrators be encouraged to embrace all of the guidelines outlined by the gentlemen from New York City. I thought that was a very thoughtful, comprehensive approach to developing solutions for obstacles. I thought especially good were the recommendations for a careful psychological test and guidelines for the use of force and deadly weapons and so forth. We still are infested with tragic killings in my community, but at least they are trying. You have got to give Police Commission Robert McGuire an applause for effort and sincere determination.

No. 2: I would suggest that police officers adopt Noble's resolutions and incorporate them into their guidelines.

Finally, I should think there should be civilian police review boards. Why? Because civilian police reveiw boards make it easier for police officers to operate. I know we always do certain things, and I think when it comes down to our necks it is better to have someone who is impartial to judge. They should be very careful. I am not speaking as a bleeding heart liberal. I believe in the death penalty. I have advocated that. I believe in being tough.

I was in Birmingham. There is a new black mayor of Birmingham, Richard Arrington. I saw him on public TV. While we were there a police sargeant had just been killed by somebody from Chicago. It was a black man. The people were up in arms. You elect a nigger man and you increase crime. The tragedy was that the police officer, a gentleman and a chaplain, had not drawn his gun when asking the suspect to come over. The police should draw their guns, take no chances, but be governed by the use of deadly force.

I am for tough law enforcement, and I say police force ought to be governed by three words, and the acrynom is ACE. They should be accountable; credible; and they should be equitable. Accountable to the people in a democracy, credible so that the people believe in them as a police force, and they should be treated equitably by hiring minorities and women in the proportion in which they exist in the population.

In closing, I say this, I think this whole thing reminds me of two people, Jeremiah and Emerson:

Jeremiah says:

"Can the Ethiopian change his skin or the leopard change its spots? Can you do good who are accustomed to doing evil?"

In other words, we have engrained habits. It is very, very difficult to change. We have got to work at it, but working at it requires specific actions, not a lot of rhetoric, as Chief Damos says.

And Ralph Waldo Emerson said:

"Do not say things for what you stand ere the while
and thunders so loud I cannot hear what you say."

To the contrary, that applies to the policemen of this country.

John Dineen

Dr. Takagi addresses himself to a need for a national civilian review panel to replace Justice Department review. It is kind of shocking to me as a police officer, a 20-year police officer, who still works on the streets of Chicago, where we are constantly under review. We are under review by our own police department, by an Internal Affairs Department, Office of Professional Standards. We are under review by our state's attorney, and in any criminal review of any of our actions we are under review by the federal district attorneys for criminal and civil review of our actions, and we are under constant review of the press for all of our actions. And now we are hearing a call for another review, a civilian review of all police actions and duties.

The question we raise is who is really on trial? Is it a police officer or is it the criminal? The police officer does the bidding of the citizenry. We only enforce those rules and laws that are passed by the citizens. Do we do away with our present system of justice, our courts, and prosecuting procedures to go to street corner justice? We do not think that is necessary.

Do we put the handcuffs on the police or on the criminal? We feel that they belong on the criminal.

Civilian review board is a title which automatically brings a negative response from any and all police officers no matter where they serve. This is civilian review or civilian control of the police.

Civilian review, as Dr. Takagi mentioned, is often viewed as a political answer to a problem that needs other approaches. He spoke of the civilian review board attempt in New York, which was overturned by a public referendum; a civilian review attempt in Philadelphia, which was allowed to expire at the end of a trial period. There was a civilian review attempt

in Newark, New Jersey, which was voted down by the administration of that city because of strong opposition from the police and some civilian groups.

We might say that the police officer views civilian review boards as a pre-criminal trial of his evidence, which is viewed in many cases in the Philadelphia experience where the police officers attack the civilian review from the fact that their evidence was being brought to trial before going into the criminal courts system.

I know when the public make a complaint they feel they have been offended and do not want to wait until after the criminal proceedings have been completed. Our criminal justice system, which the police themselves are not too comfortable with, you hear us very often complaining about it. You are talking about sometimes an eight to 12-month process to get a trial completed. A citizen who feels he has been offended and if it involves a criminal proceeding does not want to wait that six or 12 months. They want and need an answer.

You have to look at the aspect of complaints versus public contact. There are thousands of contacts a day in the City of Chicago between the citizens and the police. They call on the police for varied services, not just criminal element services. Most of the times we know there is no complaint, no problem.

The majority of the complaints, I would say, probably involve non-felony incidents, such as traffic incidents, where there is adverse action between the police officers and civilians. There are many things that go to our police review system, but what we really need is a police community relations. Citizens want to know that their complaints are being handled immediately.

In the City of Chicago they have approached this with a new view. We are greatly opposed to civilian review. Our department has an Internal Affairs Division, which is entirely police officers, who investigate complaints against police officers, except those complaints which are in regard to excessive force or any time a police officer fires his weapon. These are investigated by the Office of Professional Standards, which is totally civilian—civilian investigators, civilian administrators—who answer only to our Superintendent of Police.

There seems to have been a public relations answer to the problem in Chicago of the public wanting an investigation not controlled by the police of their actions. The police were reluctant at first to have the Office of Professional Standards. I was probably one of the most vocal in opposition to it.

As it has now worked out, after four or five years, we see that it is not a completely dominating force over the police, and it has worked rather well.

Another problem we have—and it has been voiced here quite often—is the problem of stress in the police department. Perhaps we need psychological training, as was addressed by several of the speakers, but the psychological aspects that we look for is the psychological care of our officers once an incident has occurred.

We have police officers who will get involved in felony incidents with individuals on the street. There is a shooting. The criminal is killed by the police officer. The officer is celebrated by his fellow officers, superiors included, and then left to handle the mental stress on his own. It causes many problems in police work. You have the heavy drinking problem with deterioration of the work level. The police officer usually wants to leave police service because they begin to get a feeling of guilt.

We don't feel this officer should be put through a civilian review of all of his actions. If the officer fired his weapon he is reviewed by our state's attorney, and in many instances by the federal district attorney. So we feel that to be more than enough.

Another problem that he discussed here was what is excessive force. Excessive force is governed by state law throughout our country. In the State of Illinois, excessive force is spelled out very definitely. In the Chicago police department we have rules and regulations that are more stringent on the police officer than state laws.

We have new procedures in the City of Chicago where they have schools with 12,500 police officers, men and women, training on the use of deadly force. As a result of this schooling, a survey was compiled, and there was 50 percent less use of deadly force by police officers on the street. But by the same token, in 1977, we had 16 police officers shot. In 1976, we still had 16 police officers shot. So it is not true that the police officer is still not a target. The use of force, once proper schooling started, reduced dramatically. There was 50 percent less use of deadly force by police officers.

I have been on the police force for 20 years and not once have I had to fire my weapon. For five years I worked in the organized crime section of our intelligence department. I don't think the average police officer should be viewed as an animal out on the street. There are several bad apples in every department. We have 12,500 officers in our Department, and the laws of our state have ways of dealing with those who use excessive force.

We do not think that they should be put on public trial by the public. Our court system has been endangered throughout our civilization in handling such problems. The police are accountable to the public, but to the law abiding public, not to the criminal element in our city.

The public wants and deserves answers to their complaints and improved police-community public relations system I think could handle that. That is something that could be worked out between the departments and the citizenry.

I don't believe we have a need for a national civilian review of all police actions. As you know, we have spent three days searching for an answer to the police use of deadly force, and we have not found the answer, but let us remember that police officers on the street must make their decision instantly and live with that decision throughout the entire review process.

Dr. James J. Fyfe

I am responding to Lee Brown's paper, and like most of the other respondents, I didn't have the opportunity to see it in advance of this. But what Lee was going to say I think was pretty

predictable, and it is difficult to comment on something which you agree with pretty strongly.

Lee, who is regarded nationally as a very progressive police administrator, argues that he can do four things: one, the police chief has a lot of administrative power over the use of force by the people in his department, two, he can institute firm policy. That is obviously a good suggestion. As Chuck Stone pointed out, in most instances that should be regarded as a supplement to the law and not something that contradicts the law. And if we look at court cases what we find in administrative law is that the power of administrators to pass rules that further the good order of their organizations is recognized by the courts. And if a police chief says, for example, that his officers can only shoot in defense of life, I don't think anybody can challenge him in court. He wouldn't have much of a leg to stand on. I am not a lawyer, but as Commissioner Convoy pointed out, the policy change in New York City resulted in a drastic drop in police shootings.

What is interesting, too, is that the types of shootings declined, changed dramatically. There were very few shots fired at people who were running away from police officers. It became a defense of life situation.

Third, Lee also talks about training. I spent five years with the New York City Police Academy. Training is something that I find that administrators sometimes use as a scapegoat if there is an organizational defect. It is sometimes labeled a training problem. Usually they are right.

One of the things I don't hear much about though in discussions of training, is how much it can be used to reduce stereotypes. Earlier we heard one of the speakers talk about police shootings being a part of the function of the perceptions that an officer brings to a situation.

I was a New York City police officer for sixteen years. I grew up in a lily white neighborhood. I went through the Police Academy 16 years ago, and there was very little of that in practice at that time. I was assigned to a black neighborhood, and all of the stereotypes and perceptions I brought to the neighborhood were things I had learned as a kid. At that time training didn't try to address them or try to alter them or bring them more in touch with reality. That is something that police administrators can get into in a big way.

Fourth, Lee also mentioned the need for reporting in an investigation system, and I would submit that that is valid. On the other hand, what we have is some police agencies who on paper have very credible police shooting policies and very credible reporting systems, and yet never seem to find the cop justified in using his gun. What I am suggesting here is that in addition to having a very strictly defined firearms policy, there should be a reasonable firearms policy, and a reasonable investigation review procedure, to define on paper what in real life has to be carried out.

One of the obstacles that a police chief has if he tries to change firearms policy or to supplement the state law by saying his officers can only shoot in defense of life is the attitude of the public. Dr. Takagi pointed out earlier that in 1966 the voters in New York City, by a two to one margin, voted down a civilian complaint review board.

New York City is a pretty liberal city. What are the voters telling the police administration when they vote down in a very liberal city a civilian complaint review board by a two to one margin? Again, that civilian complaint review board in New York does presently exist. It does not exist in the manner in which it existed in 1966 before that referendum.

I also saw recently a survey done by Sam Houston State University. They surveyed a random sample of the population in Texas, and if we can make an argument that while Texas, like New York, is a typical state, one of the questions they asked had to do with under what situation should a police officer be allowed to use his gun? An overwhelming percentage of the population said that a police officer should be allowed to shoot any fleeing felon.

Also, a number of respondents, four or five percent, said that a police officer should be permitted to shoot at someone fleeing from a traffic violation. So what we have is an issue of public consciousness.

The question, I think, that one can pose to the public is this: In those states where the fleeing felon rule is in existence, and in police departments which are allowed to shoot at fleeing felons, one can wonder whether the fleeing felon rule has any deterring effect on felons, and my feeling is that it does not. If we look at the number of felonies that are reported to local police and to the FBI, you will find that there are hundreds of thousands, and we are saying this afternoon that police shooting is a considerable issue, but we are also saying that 560 people a year get killed by the police. Now, out of the hundreds of thousands of felons a very small number is actually shot by the police. I submit to you that an individual who is contemplating a burglary or stickup is much more worried about getting shot by the guy who owns the grocery store or resident of the premises he intended to burglarize than he is worried about being short by a police officer after running away from the scene.

The fleeing felon rule is not much of a deterrent in New York City. In New York when fleeing felons shootings were restricted, they didn't suddenly leap, it didn't motivate criminals to go out and commit felonies because they knew the police could no longer shoot at them. The numbers of shootings declined dramatically. The numbers of felonies has increased at a pretty constant pace. It didn't seem to be a situation where handcuffs were put on the police and felons took advantage of it.

Another issue which surfaces when we talk about deadly force is that it is difficult to make generalities. For example, I did a lot of research in New York City on police shootings, and most of my perceptions have been based on police shootings there.

I am doing research on another city and I find that the types and rates of shootings are dramatically different. There was an article in the *New York Times* a couple of weeks ago which gives general descriptive information about police killings in the United States. Unfortunately, with just about every point that the individual who wrote the article made, it is not true in New York City.

Mike Cannon, one of the journalists who works for the *Washington Star*, looked at shooting rates in 10 American cities, and what they find is they vary tremendously. The police in some cities kill 10 or 12 times as many people as the police in other cities. So it is difficult to describe police deadly force and say it applies to any specific jurisdiction.

What is interesting is that the police in three cities, San Francisco, Washington, D.C. and New York City, shoot fewer people in the streets.

I discussed with a fellow here at the conference the issue of why there are few rank and file police officers represented among the speakers and respondents, and he pointed out that it is very important that all administrator's efforts be supported by those in the field. If a police administrator institutes a policy such as the instigation of a review procedure, and tries to devise an early warning system, and tries to screen out the unfit, it is important that he have the support of the people who work in the street.

One of the issues that most police administrators confront is this: That many field supervisors and many cops on the street don't feel that it is their job to point out to the administrator that someone they work with may be a little bit flaky. They see the monitoring of personnel as a headquarters responsibility. In a lot of police agencies there is a real dichotomy between headquarters and the people on the street. So in addition to the things that the police administrator can do very directly, he has got to imbue everybody in the department with that kind of philosophy. If somebody working with you appears really unstable or he has done something relatively minor, but which indicates he is not quite all there, you should call it to somebody's attention. The best intentioned police administrator cannot do anything about the behavior of his people if he doesn't hear anything about it.

The last issue has to do with people like Lee Brown and those who run the New York City Police Department. It is very important that the police administrator have a general operating philosophy that doesn't reward violence among his people. In a lot of police agencies the violent cop is the most highly respected cop. Most police don't spend much of their time dealing with crime and violence. They deal with problems of people in the community, and unfortunately, the reward systems of most police agencies are not geared to reward those efforts.

What I am suggesting, and I know this is done in the New York Police Department, is that people who are engaged in very meritorious duties that don't necessarily involve shooting bank robbers are held in high esteem by the administrator and should also be viewed as role models by the rest of the people in the department. There seems to be an overemphasis in a lot of places on the dangerous jobs.

I would suggest that the public consciousness has to be raised.

A national publication on the use of force is different American jurisdictions would be very interesting. It would be interesting to find out which of us here lives in a city where there is 20 times as much violence as in some other cities. It would be interesting for the public to know that. It would be interesting for the public to ask the police commissioner why.

The FBI does not presently report shootings by police. Perhaps they should.

One thing the Federal Government might be able to do is to tie federal assistance to local law enforcement to some reasonable efforts on the part of the administrator to control the use of deadly force.

The City of Seattle has a progressive police chief. He has an interesting problem. He is a giant in instituting a restrictive firearms policy, but his citizens before he took office voted the police chief's efforts to do that down, and he is under pressure there, under pressure from the police unions not to institute a policy. I think if people are going to press for the institution of firearms policies and correct administrative procedures, one of the things they might do is point out the experience in New York.

When the guidelines and review procedures were instituted in New York, not only did police shootings of citizens and killings go down, but the shooting of police officers also declined. Violence begets violence, but I would submit to you when I travel from place to place people tell me, "You were a New York cop for many years. That must be a really tough job." The interesting fact is the police mortality rate in New York City is less than half the national average. That is pretty interesting.

So what that suggested to me is that the firearms guidelines did not handcuff the police, did not make the police job more dangerous. The felon is interested in getting away and not in attacking a police officer.

Joquain Avila

With respect to Commissioner McGuire's statement, I found myself agreeing pretty much with all of the concepts that he mentioned. For example, the firearms policy is not really a very complicated matter. I think the time for study is over. It is very easy just to write a policy and then the solutions may not be so easy, but an attempt to enforce these firearms policies should be made.

I would question the structure of the committee. How is it that minorities and affected members of minority communities can have maximum input into this joint position?

I would also look at the makeup of the commission to insure that they have input from the affected areas.

With respect to the instruction for the discharge of firearms, I don't think anybody has any serious qualms about having police officers engaged in continuous training to assure that they will not be placed in a situation which would have deleterious consequences for the minority communities.

With respect to the allegations of police misconduct, again, these allegations should be very thoroughly investigated. I would question the membership, structure and the results of the civilian complaint review board. What type of results, what kind of effect does this have on improving relationships between the minority community and the police department?

With respect to the input of psychology and psychiatry, again, that is very essential in both the interviewing and the on-the-job training process. One of the things that I found that the paper did not focus in on, which I feel is very important,

is that the police chief, the police commissioner and those in authority must take a very aggressive role in sensitizing themselves to the needs of the minority community. They must set aside specific time in their administrative duties to meet with minority groups, to meet with minority people from these areas, from the barrios and ghettos as well. It is important and I can hardly overemphasize that point because the police chief and those who are in authority set the tone and that tone is often manifested by police action or conduct and it is very important for that to be institutionalized.

With respect to the comment concerning criticism, I must disagree there. I believe both general and specific criticism is very essential. It is necessary to demonstrate that there is a very active frustration in the minority community concerning the lack of adequate police protection or concerning the police abuses, and so it is very important that criticism be channeled and be constructive as well, but that criticism should nevertheless continue, be it either general or specific.

Now, with respect to these concepts, as I indicated earlier I am practically in agreement with all of them. However, the reality of the situation may present a different picture. I am not from New York, and in speaking to various people from New York City, they indicate to me that relationship to the minority community and the police department is certainly not what it should be.

In fact, just recently there was a Latino who was in custody, was killed, and that to me indicates that there are still problems, serious problems, concerning the implementation of these firearm policies and civilian review boards, which they have in New York City.

One of the primary objectives of this conference is to minimize tensions between the police department and the minority communities. It is also attempting to place restraints on unwarranted police behavior and to create more understanding by community groups, and the opportunities to fulfill these objectives are present in this conference.

However, the one thing that is lacking in this and in previous conferences that I have attended is that there is very inadequate followup. There is very inadequate accountability. This accountability must be institutionalized, and unfortunately it cannot be done on an ad hoc basis. It has to be done either by the Department of Justice, by police groups, by community groups, or by civilian review boards.

With respect to followup, if adequate followup is not provided, then all we are going to accomplish here, which I think is still a significant purpose, is that we will have established certain meaningful social contacts and professional contacts with one another that we can share as the years go on. But I think a conference of this nature and scope demands more. It requires effective followup, and the only way that can be done is for the participants in this conference to engage very actively in providing a blueprint that we can take back to our communities for implementing many of the things that were discussed here. A blueprint for action, a blueprint for allowing community people to approach their police chief, a blueprint to allow various others to apply pressure to a local police chief, a blueprint that will maximize civilian input into this problem.

CLOSING SESSION

CONSULTATION SUMMARY

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Lawrence Sherman

I think this has been a very important conference and has accomplished a great deal in terms of focusing attention on this very important issue. Throughout the conference the concerns for the tragedy, and significance of the problem and for the seething anger over the issues, have been very admirable. However, the thrust of my critique is that I think it is also important if something is to be done to have this conference demonstrate a greater concern for the unvarnished facts about the problem that we are dealing with, and that there be established by scientific research a basis for dealing with the problem. In all candor on occasions during the conference, there has been a rather shocking disregard for the facts.

For example, several years ago in a review of studies that had been done in specific cities on the proportion of police shootings of unarmed persons, I concluded and wrote a document to the National Institute of Mental Health that showed that between 25 and 50 percent of the victims were unarmed.

I have heard that statistic quoted early on in this conference. I later heard it said that most of the victims were unarmed. I heard it said that all of the victims were unarmed. I think the psychology of taking a certain statement and exaggerating it is dangerous psychology, whether it occurs out on the street or in a conference of leaders who are in a position to do something about the problem.

Another example is not a question of misrepresenting what is being heard, but a question of accepting uncritically statistics and numbers that are offered. We have heard the United States Public Health Service's vital statistics on the number of people killed by the police referred to several times, and yet in a study that was recently released it was demonstrated that when you compare those statistics in over 30 specific cities, they are at least 50 percent too low, and what we have not had is people asking how do they really know how many people are killed, and I think that what we have to say now is that we simply don't know how many people are killed by the police. We do know it is a lot more than the numbers that have been produced by the Public Health Service. Clearly there is a need for more information, and perhaps the public consciousness, e.g. in the Texas population when public opinion was that they should kill off the felons. Public opinion in the Del Penalis case is very different depending on the information and knowledge the public has about how often the death penalty is used against minorities.

The statistics would be better if they showed more on the disparity in the victimization of minorities through police use of deadly force.

Many speakers have claimed that hiring more black and minority officers would reduce the frequency of police use of deadly force. I think there are many good reasons to hire more black and minority officers, and I think we ought to continue to support strong and vigorous affirmative action programs. But I also think that we ought to pay attention to the research, because the available research on this issue shows that black and minority officers use force more often than white officers, and if you control certain other factors such as the area to which they are assigned it works out to about the same frequency, but they are also more likely to use force, and deadly force, against members of minority groups.

There are a lot of reasons for that and one has to look at it very carefully, but the point is that the problem is very complex and it can't be addressed adequately in a kind of simplistic approach to what we are going to do about that deadly force.

There has been some discussion of research findings, and there have been discussions and reports on the concrete nuts and bolts of programs designed to do something about the problem. There are some things that societies have tried that seem to make some difference, but I have also sensed here at the conference a great deal of impatience with that kind of discussion. Impatience that I believe is not a good strategy approach.

I heard it said, for instance, that the people in the barrios and in the ghettos don't understand the psychology and sociology of testing officers. The administrative folly says all they understand is the blood on the streets. I think that is no doubt true. I think it is also true that most people don't understand biology and psysiology and chemistry, and all they see is people around them dying of cancer and heart attacks, and neither heart attacks nor cancer nor police killings are going to be dealt with by ignoring the more complex aspects of what can be done.

The question the conference should have focused more on and did not is the question of what is to be done, and my answer is, "What needs to be done is to focus on innovation and research." That is, we won't know what works to deal with the problem until we try things and we systematically evaluate them.

I might say that research is not a word I have heard mentioned here even during the evaluation of the conference. Congressman Conyers has indicated that the role of research in dealing with deadly force is a vital one, and to ignore research, for instance, the LEAA research that is going on now, is to ignore a valuable and potential way of dealing with the problem.

What kind of innovation could we try? I think it is clear that many people have mentioned the defense of life policy, the restriction of the use of deadly force. There are only two instances in which there is an immediate and overt threat to the life of a police officer and to another. I have never seen a firearms policy for any police agency in this country that restricts the use of force to such situations.

Commissioner Convoy has told us that is the current policy in New York. I haven't seen it, and I am going to accept his statement. But I have heard police chiefs say that they have such a policy, and, in fact, I have even heard a chief at this conference say that and then go on to read a policy that clearly demonstrate that the use of force is permissible far beyond the defense of life. For instance, one policy that is fairly restrictive allows officers to use deadly force to apprehend someone who is fleeing, who in the officer's judgment will cause or may cause harm to someone if not apprehended immediately.

Now, simply from the officer's standpoint, I think that puts him in a terrible position. He is required to have a crystal ball. He is required to make a presentation on behalf of somebody running away from him. Just because somebody pointed a gun at a bank teller or shot at someone while fleeing does not necessarily mean he is going to do the same thing to somebody

else. Psychologists cannot really predict that kind of behavior with all the time in the world to gather data, so we can't expect the police officer to make that kind of decision in a split second.

I don't know of any departments that have a strict defense of life policy. Even the FBI has said it has a defense of life policy. I found out last Friday from the Justice Department that although in the first clause in their policy it says an FBI agent may only use force in the defense of life, the second clause says he must also use whatever force is necessary to obtain an arrest. That leads to confusion as to what the policy is.

The second point is that we need a police department which has the courage to adopt a strict defense of life policy to not kill somebody who is fleeing and not point a gun at anybody even though he had used deadly force against somebody else. This is a violation of due process. If the guy is apprehended he is not going to be executed, he is probably not going to spend all that many years in prison. The Chief of Oakland said that to catch the three burglars who would go to jail we have to shoot a thousand of them given the rate of plea bargaining in that jurisdiction.

But the importance of the research again goes back to the need to get all of the people in agreement on what the policy should be, including the people of Texas. Because when you propose a defense of life policy, the first question that come to the mind of many people is the rate of attacks and harm to police officers, and, secondly, that the rate of crime will increase because the police are not catching everyone they can.

So far, the available research on what happens when you institute some restriction in deadly force policy suggests that police officers may, in fact, have their safety risks improved, as they did in New York. My study in Atlanta showed there is no change over time in the rate of attack and injury on police officers, and, again, the available evidence shows that there is no increase in crime that can be associated with a more restrictive policy. What we really need is for some community to adopt a strict defense of life policy and then stand ready to allow some university to evaluate such a policy.

So it seems to me that the first course of action for all of us is to go back to our communities and try to institute defense of life policies, and if you can't do it through persuasion there is another avenue, and that is litigation. I think there are solid constitutional grounds for arguing that anything other than the defense of life policy is a violation of due process, and also under the criterion that Justice Rhenquist has outlined in a recent case, it fits the definition of cruel and unusual punishment. I read this case in a law review article that is about to come out.

I think if we had litigation of that nature in 50 or 60 communities around the country. There is a very good chance the issue would surface to the Supreme Court and force them to take a stance on whether or not we can, in fact, execute people without having the full benefit of the weighing of the facts and giving them an opportunity to defend themselves. It is unfair to the police officers to force them ot serve in a split second as a decisionmaker of not only arresting officer, but jury and executioner.

I think we also have to be aware that the defense of life policy is no solution: that it is very possible even under the defense of life policy for an officer to rehearse the littany as he is pursuing the suspect, but when he crouches and sees a shiny object, he shoots at it. It was mentioned the other day that testimony comes out over and over again clearly rehearsed. It is possible for the police officers to get around a defense of life policy, and I think that that requires a tougher administrative stance and investigative stance on the part of the people who deal with it, but at least if you have the defense of life policy you have the possibility of limiting the use of deadly force.

There are other facts and common knowledge that need to be challenged. For instance, the common law which federal judges throughout this country keep pointing to as a justification for shooting fleeing felons. This ancient and hallowed tradition was imported from England. I have looked at the English law and the legal history as well as the official reports most recently on criminal justice in England, and it is not the consensus of English authority that that common law ever existed. There was confusion in the writings of the common law code first, and in fact there was a misperception that saw the law that way. It is a kind of shared misunderstanding that we have got to correct.

I don't think this conference or some of the speakers I heard are alone in misrepresenting the facts and are not really being very rigorous in their search for the truth about this problem. I think we see that at the highest levels of our judiciary and of public officials in this country, but I think where you are talking about the people out in the street that knowledge is going to be necessary if we are going to save the lives of people taken every day and not every minute, as some people have implied. If we would save those lives, I think we must not only have a sense of what is right but also a very clear sense of what is true.

Voice: The National Association Chiefs of Police as well as Fraternal Order of Police have taken a position that the police are capable of policing themselves. Yet both of you readily admit to bad apples. My question is what, if anything, would you suggest that the public do when, in fact, police investigations are not ridding us of bad apples?

Dineen: The Chicago Police Department where I work and where you work does remove police officers at a level of about eight a month as a result of disciplinary investigations. We have heard the gentleman from New York state they have a thousand investigations a year and resulting removals in their department, so I think the departments themselves have mechanisms to adequately police themselves without civilian review.

Voice: What are you saying police officers are being removed in Chicago for?

Dineen: For cause.

Voice: As related to killing blacks, killing people in the streets?

Dineen: If there is cause they have to be removed for killing individuals.

Voice: I don't want to do anything with that statement.

Dineen: If a police officer exceeds his bounds in taking anyone's life, no matter what color he might be, he will be removed from the department. I am speaking from experience in Chicago. When they are ruled to be within the bounds of the law and have not violated department rules or regulations they have not been removed, and I don't think they should be removed because there is not a need for a kangaroo court.

Voice: It is a shame we don't have more time. Your statements are totally incorrect, and my only comment to you and the gentleman representing the International Association of Chiefs of Police is that as historically you have been against citizen review and citizen evaluation of police officers performance, the longer you try to protect punks who charade as qualified representatives of the law, the longer we are going to have a problem in terms of resolving the relationship between the institution and the community itself.

I reiterate that I am not pointing to you as an individual, but racism and favoritism that exists within the department demand that the International Association of Chiefs of Police at least put a policy statement out that puts life above property.

Every black officer that you have in your organization now that is not in a union situation is lost because you are fighting discrimination suits. And if we are lying, even in Chicago where we had to prove the case of discrimination, you still don't see as an organization the moral responsibility to come forward and say it is true. But if we are all going to be a part of the same institution, let's get rid of things that we don't need that split us apart. At some point you are going to have to face that issue head on and not cause young officers coming on the job to think there are two camps. We are part of the community.

Dineen: First of all, I will not attempt to answer for the International Association of Chiefs of Police. On behalf of the FOP I don't see where there is that constant antagonism you speak of. We are all police officers to start with, and I stand here representing police officers, that segment of the community that is law enforcement, and we are a part of the community also, and we live with it from day to day.

As far as answering for what might happen in some other jurisdiction I cannot do that. I can only speak for the FOP.

It has been my pleasure to appear here today. I have been placed in an antagonistic position with Dr. Takagi because we are on opposite sides of opinion. But I would welcome the opportunity to appear at any other conference that voices cooperation between the police and the community because I think the line officer, the officer on the street, belongs in our organization, does want a voice, and we don't want to be closed out of this.

This resolution forms the concensus of a minority of the participants at the National Consultation on Safety and Force: An Opportunity for Police-Minority Cooperation. It was approved on December 13, 1979, after a majority of the attendees had departed. Persons whose names are listed formed the resolution committee.

STATEMENT OF CONSENSUS

For conceiving and conducting this historic meeting, we congratulate and thank the Community Relations Service of the U.S. Department of Justice, National Urban League, and League of United Latin American Citizens.

The consultation has made clear that the excessive use of force by police is a very serious concern in many communities. Clearly, many persons in this nation are dying as a result of police discharges of firearms. It is of special concern to us that a disproportionate number of those persons shot by police are racial minorities. We believe that the only justification for the use of deadly force is for the protection of human life.

The consultation surfaced a large number of ideas and recommendations on how police and minority cooperation can be enhanced. To preserve these contributions, we recommend that the sponsors of this consultation prepare and widely disseminate a report on the consultation. Emphasis should be placed on the areas of police training and testing, police/community communication, development of a national standard for the use of deadly force, and effective ways to adjudicate complaints and claims involving the police.

It is further recommended that the Attorney General of the United States place the greatest emphasis possible on developing, and presenting to the nation's law enforcement agencies, standards that may be adopted to ameliorate the problem of the police use of deadly force. Further, we recommend that the Attorney General develop these standards with the close cooperation of the representatives of concerned minority organizations and of law enforcement agencies.

Lastly, we recognize that a number of law enforcement agencies have in recent years taken concrete steps to improve their policies and procedures concerning the use of deadly force. But nationally the problem remains such that a concerted national effort must be initiated. We believe that significant programs to enhance police/community relations will result in a reduction of the needless deaths of civilians and police.

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